

IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH (Virtual) JODHPUR

BEFORE SHRI RAJPAL YADAV, HON'BLE VICE PRESIDENT AND
DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER

ITA No. 540/Jodh/2024
(Assessment Year 2015-16)

A.C.I.T., Circle-1, Jodhpur.	Jodhpur Healthcare Pvt. Ltd., Medipulse Hospital, E-4, MIA Basni II, Opp. AIIMS Campus, Jodhpur – 342005. PAN No. AACCCJ9336P
Revenue by	Smt. Runi Pal, CIT-DR.
Assessee by	Shri Amit Kothari, C.A.
Date of Hearing	01.05.2025.
Date of Pronouncement	01.07.2025.

ORDER

PER DR. MITHA LAL MEENA, A.M.:

The captioned appeal has been filed by the revenue against the order of the Id. National Faceless Appeal Centre [NFAC/CIT(A)], Delhi dated 03.05.2024 in respect of Assessment Year 2015-16 where the Department has raised following grounds:

- Whether the Id. CIT(A) is justified in law and on facts in deleting the addition of Rs. 74,98,49,523/- made on account of disallowance of deduction claimed u/s 35AD r.w.s. 80-1A of the Income-tax Act, 1961 by holding that the assessee has fulfilled all the conditions for claiming deduction u/s 35AD, by not appreciating the fact the assessee has failed to comply with statutory requirement of provision of section 35AD(7) read with section 801A(7) to file audit report in form 10 CCB within prescribed time limit to claim deduction u/s 35AD.*



2. Whether the Ld. CIT(A) has erred in observing that in the case of CIT vs. G.M. Knitting Industries (P). Ltd. 376 ITR 456, the Hon'ble Supreme Court further held that even though necessary certificate in Form 10 CCB along with return of income had not been filed but same was filed before final order of assessment was made, then in that case, the claim of the assessee cannot be disallowed, whereas in the above decision the Hon'ble Supreme Court has concurred with the decision of Hon'ble Bombay High Court in the case of Commissioner of Income Tax vs. Shivanand Electronics wherein it was held that in case assessee file the audit report before completion of assessment, he has to offer a satisfactory explanation for his failure to submit the same in time, the Income Tax Officer may consider the same and examine the claim of the assessee for deduction u/s 80J on the basis of the such report. The Ld. CIT(A) has failed to appreciate the fact that in the present case the assessee has failed to offer satisfactory explanation for his failure to submit the audit report in time.

4. Whether the Ld. CIT(A) is justified in holding (that the assessee has been entitled the form 10CCB with return of income filed u/s 148 of the IT Act, 1961 and going by the wordings of' the section 148 which states that the provisions of the Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139. With the above reasoning, whether the Ld. CIT(A) has erred in assuming that in re-assessment cases u/s 148, the assessee gets extended time limit for compliance of statutory requirements under IT Act 1961 which are otherwise barred by limitation.

4. That the tax effect involved in this case is above the limit laid down in Circular No. 05/2024 dated 15.03.2024 issued by the CBDT, New Delhi."

5. That the appellant reserves its right to add, amend or alter the ground(s) of appeal on or before the date, the appeal is finally heard.

2. Heard both the sides, perused the record, impugned order and Citations.

This appeal of the department was heard as covered case by the judgement delivered by the Hon'ble Apex Court in the case of "Union of India v. Rajeev



Bansal”, [2024] 167 taxmann.com 70/301 Taxman 238/469 ITR 46 (SC) that for assessment year 2015-16, all notices issued on or after 1-4-2021 would have to be dropped as they would not fall for completion during period prescribed under Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020.

3. In the present case, first time, the Id. AO initiated the proceedings u/s 148 by issue of notice on 30.03.2021. Pursuant to the said notice, return of income was once again submitted on 29.04.2021 declaring the same income with carry forward of deduction under section 35AD. Thereafter these proceedings so initiated were dropped and again second time proceeding under section 148 was initiated vide notice u/s 148 dated 29.07.2022.

4. Recently, on parity of facts while adjudicating the same issue of validity of 148, the Hon’ble Delhi High Court in the case of Lalit Gulati vs. Assistant Commissioner of Income-tax [2025] 174 taxmann.com 273 (Delhi), vide its judgement dated 2nd May 2025 following the Hon’ble Supreme Court in the case of “Union of India v. Rajeev Bansal”, (Supra) observed that where Assessing Officer issued a notice under section 148 seeking to reopen assessment for assessment year 2015-16, in view of concession made by revenue before Supreme Court in Union of India v. Rajeev Bansal [2024] 167 taxmann.com



70/301 Taxman 238/469 ITR 46 (SC) that for assessment year 2015-16, all notices issued on or after 1-4-2021 would have to be dropped as they would not fall for completion during period prescribed under Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, impugned notice dated 23-7-2022 issued under section 148 was to be quashed and set aside.

5. Following the decision of the Hon'ble Supreme Court in case of Union of India v. Rajeev Bansal (supra) which sets out the concession as made on behalf of the revenue that for the assessment year 2015-16, all notices issued on or after 1-4-2021 will have to be dropped as they will not fall for completion during the period prescribed under TOLA.

6. In view of the above, we hold that the impugned notice u/s 148 dated 29.07.2022 and the proceedings relating thereto are required to be set aside. Accordingly, the assessment order is quashed as bad in law.

7. In the result, the appeal of the revenue is dismissed.

Order pronounced on...01.../...07.../2025 in the open court.

- Sd/-
(RAJPAL YADAV)
VICE PRESIDENT

1
- Sd/-
(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

Dated : 01/07/2025

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

By Oder
Assistant Registrar,
Income Tax Appellate Tribunal,
Jodhpur Bench,
Jodhpur.

