

IN THE INCOME TAX APPELLATE TRIBUNAL BENCH-RANCHI
VIRTUAL HEARING AT KOLKATA

**Before Shri Sonjoy Sarma, Judicial Member
and Shri Ratnesh Nandan Sahay, Accountant Member**

I.T.A. No.85/Ran/2025
Assessment Year: 2018-19

Chandan Singh.....Appellant
S/o Rajmuni Singh, Navatand,
Naudiha Bazar, Chhatarpur, Palamau,
Jharkhand-822101.
[PAN: DVYPS5881K]

vs.

ITO, Ward-3(5), Daltonganj.....Respondent

Appearances by:

Shri Devesh Poddar, AR, appeared on behalf of the appellant.

Shri Khubchand T. Pandya, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : July 02, 2025

Date of pronouncing the order : July 09, 2025

ORDER

Per Sonjoy Sarma, Judicial Member:

The present appeal has been preferred by the assessee against an order dated 13.02.2025 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. Brief facts of the case are that the assessee is engaged in the business of transportation and ITR for the assessment year 2018-19 could not be filed, therefore, notice u/s 148A(b) was issued on 21.03.2022 alleging that the assessee had sold motor vehicle for Rs.1,06,66,383/-. Subsequently, notices u/s 148A(d) & 148 were issued to the assessee and assessment was framed u/s 148 r.w.s. 144 determining total income of Rs.1,06,66,383/-.

3. Dissatisfied with the above order, the assessee preferred an appeal before the ld. CIT(A) where the assessee challenged various ground

including the ground of alleged notice issued by Assessing Officer was bad in law and on incorrect fact, therefore, the impugned assessment order is liable to be set aside, but the Id. CIT(A) did not consider the submission made by the assessee simply dismissed the appeal of the assessee by upholding the order passed by the Assessing Officer.

4. Aggrieved by the said order, the assessee filed the present appeal before this Tribunal raising various grounds. However, the assessee primary contention is that the impugned notice issued to the assessee was bad in law since 148A notice dated 21.03.22 stating that the assessee has received payment from sale of moto vehicle exceeding Rs.10 lakh u/s 206C to the extent of Rs.1,06,66,383/- and there was an escaped assessment. However, the contention of the Id. AR is that the assessee never sold such vehicle to any person in fact the assessee has purchased a vehicle during the year, therefore, notice issued is on incorrect fact which is liable to be set aside. Another ground taken by the assessee is that notice dated 21.03.22 was issued to the assessee and directed to comply on 28.03.22 and the assessee hardly got five days' time to comply the notice which is not proper as per mandate of the Jurisdictional High Court as in the case of Satish Kumar vs. PCIT in WP(T) No.2640 of 2023 where it was held that at least clear seven days must be given to the assessee to comply notice. The relevant part of the judgment is as under:

“6. Having heard learned counsel for the parties and after going through the documents annexed with the respective affidavits and the averments made therein, admittedly; the show cause notice was issued on 22.03.2023 and in para 3 of the said notice it was categorically indicated that the reply to the aforesaid notice should be submitted on or before 29.03.2023; however, the e-reply was showing already closed on 26.03.2023 and finally on 31.03.2023 an order under Section 148A(d) of the Act was passed by the respondent No.2.

7. To decide the lis involved in the instant application it is necessary to peruse the provisions of the Act which governs the issue in hand, which is quoted herein below:-

Section 148A(b) of the I.T. Act.

"148A (b) provide an opportunity of being heard to the assessee, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has case for the escaped assessment in his relevant assessment year and results of enquiry conducted, if any, as per clause (a);"

From bare perusal of Section 148A(b) it appears that minimum 7 days is required to be given to the Assessee for filing reply. This 7 day is to be calculated by ignoring the date of issue and the last date of submission. In other words, minimum 7 clear days has to be provided to the Assessee for filing reply.

In this regard reference may be made to the case of Pioneer Motors (Private) Ltd. Vs. Municipal Council, Nagercoil reported in AIR 1967 SC 684 wherein at paragraph 8 and 9 the Hon'ble Apex Court has deliberated the issue with regard to counting of dates.

"8. The words "not being less than one month" do imply that clear one month's notice was necessary to be given, that is, both the first day and the last day of the month had to be excluded.

"When..... 'not less than' so many days are to intervene, both the terminal days are excluded from the computation".

9. In every case the words have to be construed in the context taking into consideration the language used and the object to be achieved. As we have said above, the use of the words "not being less than one month" implies the giving of a clear month excluding both the first and the last day of the month.

Emphasis supplied.

8. Thus, we see that the law is no more res-integra; inasmuch as, the words 'not be less than 7 days' implies that clear seven days is obligatory to be given to the Assessee. Thus, on the one hand the notice which was given to the petitioner under Section 148A(b) was not in accordance with the provision of the Act, inasmuch as, only 6 clear days was given to him. So, on this score alone the notice under Section 148A(b) deserves to be quashed and set aside.

9. Moreover, from bare perusal of Annexure-3 which is the screenshot of e-proceeding clearly indicates that on was closed, thus the 26.03.2023 itself, e-submission petitioner was prevented from submitting his reply online.

The argument of Mr. Sahay appearing for the revenue that it was the duty of the petitioner to approach the concerned authority is misconceived and without any basis and is fit to be rejected inlimine in view of the specific provision made under the Act itself. Thus, the impugned orders requires interference.

10. Consequently, the impugned order dated 31.03.2023 (Annexure-4) and the consequential notices issued under Section 148 dated 31.03.2023 (Annexure-4/1) for the Assessment Year 2016-17 is hereby quashed and set aside.

The matter is remitted back to the respondent No.2 to allow the petitioner for filing its reply by giving him at least 7 days clear notice and not more than 30 days to file its reply and thereafter proceed in accordance with law.”

5. On the other hand, the Id. DR supported the decisions rendered by the authorities below.

6. We, after hearing of both the parties and perusing the materials available on record, find that in the instant case, notice u/s 148 was issued on 21.03.22 and directed to comply on or before 28.03.22, there is hardly 5 days' time given to the assessee to comply with the notice, which is contrary to the findings given by the Jurisdictional High Court as in the case of Satish Kumar vs. PCIT in WP(T) No.2640 of 2023 (supra). We, therefore, find that the instant notice u/s 148A(b) dated 21.03.22 is bad in law in view of Hon'ble Jurisdictional High Court as in the case of Satish Kumar vs. PCIT(supra) where it was clearly held that at least clear seven days must be given to assessee to comply with the notice, but in the present case, assessee was not afforded clear seven days to comply with the notice. Accordingly, the impugned order passed by the Id. CIT(A) is set aside and directed the Assessing Officer to delete the addition as made in the case of assessee.

7. In the result, the appeal of the assessee is allowed.

Kolkata, the 9th July, 2025.

Sd/-
[Ratnesh Nandan Sahay]
Accountant Member

Sd/-
[Sonjoy Sarma]
Judicial Member

Dated: 09.07.2025.

RS

Copy of the order forwarded to:

1. Appellant
2. Respondent
3. CIT(A)-

4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches