



**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH (SMC), RAJKOT**

**BEFORE DR. ARJUN LAL SAINI, AM.**

आयकर अपील सं./ITA No.176/RJT/2025

निर्धारण वर्ष / **Assessment Year: (2015-16)**

**(Hybrid Hearing)**

Mohan Hardash Thaliyani, Plot No. 113, NU-3, Apna Nagar, Gandhidham- 370201(Gujarat)	Vs.	Income Tax Officer, National Faceless Assessment Centre/ Ward-1, Gandhidham, Income Tax Office, Plot No.32, Sector 3, Near IFFCO Colony, Gandhidham-370201
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No.: <b>AFOPT 2722 B</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by : Shri R.K. Doshi, Ld. AR

Respondent by : Shri Dheeraj Kumar Gupta, Ld. Sr. (DR)

**Date of Hearing** : **14/05/2025**

**Date of Pronouncement** : **04/08/2025**

**आदेश / ORDER**

**Per, Dr. Arjun Lal Saini AM**

Captioned appeal filed by the assessee, pertaining to Assessment Year 2015-16, is directed against the order passed under section 250 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') by National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income-tax(Appeal), vide order dated 16.01.2025, which in turn arises out of an order passed by the Assessing Officer dated 24/03/2022, u/s 147 r.w.s. 144 read with section 144B of the Act.

2. The grounds of appeal raised by the assessee are as follows:

*1. The order of the learned CIT (A) u/s.250 is bad in law and Contrary to the facts of the case.*

*2. The learned CIT(A) /NFAC has erred in not adjudicate the additional grounds of appeal filed on 18.11.2024 before CIT(A)/NFAC, which challenged the validity of the reassessment notice issued under Section 148 of the Income Tax Act, 1961. This omission is in violation of the principles of natural justice.*



3. *The learned CIT(A)/NFAC has erred in not considering the further written Submissions filed on 18.11.2024 before CIT (A)/NFAC along with additional grounds of appeal.*

4. *The reassessment notice issued under Section 148, dated 31/03/2021, digitally signed on 01/04/2021, was invalid, as it did not comply with the amended provisions introduced by the Finance Act, 2021, effective from 01/04/2021. The learned CIT (A) erred in not considering this legal contention raised by the Appellant.*

5. *The learned CIT (A) erred in setting aside the assessment under Section 144 and directing the Assessing Officer for a fresh assessment without adjudicating the additional grounds of appeal and Further Written Submission filed on 18.11.2024 during the Appellate Proceeding before CIT(A)/NFAC, which challenged the validity of the reassessment notice issued under section 148 of the Income-tax Act, 1961.*

6. *The order of the learned CIT (A)/NFAC u/s.250 of the Act, is bad in law and contrary to the facts of the case, illegal, unjustified and against the principles of natural justice.*

7. *Without prejudice to the above your petitioner craves leave to add, amend, alter, vary or withdraw all or any of the grounds on or before the hearing of appeal.”*

3. The assessee has also raised additional grounds, which are reproduced below:

*“1. On the facts and circumstances of the case and in law, the notice issued u/s 148 in this case is bad-in-law, illegal and without jurisdiction and therefore the assessment order passed on the foundation of such notice is liable to be quashed.*

*2. The Notice u/s. 148 of the Act dated 31st March 2021 (digitally signed on 1st April 2021) was issued under the old regime, by passing the requirements introduced by the Finance Act, 2021, effective from 1st April 2021.*

*3. The issuance of notice u/s.148 of the Act for AY 2015-16 on 1st April 2021 for the escapement of income Rs. 29,09,670/- (i.e. below Rs. 50 lacks) is beyond this limitation period of three years, rendering the notice and any related reassessment proceedings invalid for AY 2015-16, this limitation expired on 31st March 2019 w.e.f from 1 April 2021.*

*4. The Notice u/s 148 of the Act issued on or after 1<sup>st</sup> April 2021 for AY 2015-16 is invalid as it does not fall within the relief period provide by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA).*

*5. The notice issued u/s 148 of the Act is bad-in-law as the Notice u/s 148 of the Act issued in absence of approval under the amended Section 151 of the Act.”*

4. About the above additional grounds, on legal issue I note that assessee did not raise objections against the reasons recorded u/s 147 of the Act in the course of assessment proceedings. Further, the ground regarding the validity of



assessment was not raised before Ld CIT(A) on the contrary same was raised before the Tribunal in Form 36 filed with additional ground. Learned Counsel submits before me that additional ground of appeal may be admitted as it is being purely a legal issue and all facts are already on record. On the other hand, Learned DR for the Revenue pleaded that assessee did not raise this issue during the appellate proceedings, before the ld CIT(A), therefore, at this stage the assessee cannot raise additional ground on legal issue.

5. I have heard both the parties on this legal issue, raised first- time, before the Tribunal. I note that assessee has raised the additional ground on the legal issue challenging the validity of reassessment proceedings under section 147/148 of the Act. I note that the facts relating to reopening the assessment under section 147/148 were there before the assessing officer. I note that it is purely a legal issue and all facts are already on record which goes to the root of the matter and no further inquiry is required for deciding the same as all facts are already on record. Therefore, in the light of ratio laid down by the Hon'ble Supreme Court in the case of *National Thermal Power Company Ltd., vs. CIT* (1998) 229 ITR 382 (SC), I, admit the additional grounds raised by the assessee.

6. Succinctly, the factual panorama of the case is that assessee before me is an individual and filed his return of income for the assessment year (AY) under consideration, on 18/03/2016, declaring his total income at Rs. 4,98,370/-. In this case, information had been received from the Investigation Wing, wherein it has been reported that during the year, the assessee has deposited undisclosed cash of Rs.29,09,670/- in his bank account. Further, on perusal of return of income filed by the assessee, it was seen by the assessing officer that the assessee has shown total income at Rs.4,98,370/- and gross receipts/turnover of Rs.5,74,629/- only. Therefore, it was construed by the assessing officer that the assessee has not



shown his gross receipts, as well his income correctly. Accordingly, the case was re-opened u/s 147 of the Act, after obtaining prior approval of competent authorities. The notice u/s 148 of the Act, was sent to the assessee, on 31/03/2021 to deliver return of income for the A.Y 2013-14, within 30 days from the receipt of the notice. However, no return of income was filed by the assessee, in response to notice u/s 148 of the Act. Subsequently, a notice u/s 142(1) of the Act was sent to the assessee, on 22.11.2021 for compliance on 07.12.2021, but no response was received from the assessee. Again, a notice u/s 142(1) of the Act dated 28.12.2021 was sent to the assessee to submit the documents. However, the assessee has not submitted any reply before the assessing officer, therefore, the assessing officer, in absence of any explanation with regard to source of cash deposits in bank account of Rs.29,09,670/-, an addition of Rs. 29,09,670/- was made u/s 69A of the Act to the income of the assessee treating the same as unexplained money from undisclosed sources.

7. Aggrieved by the order of Assessing Officer, the assessee carried the matter in appeal before Ld.CIT(A), who has confirmed the action of the Assessing Officer. The learned CIT(A), on merit, just reiterated the facts narrated in the assessment order and dismissed the appeal of the assessee.

8. The learned Counsel for the assessee, argued on the additional ground/legal ground raised by the assessee, stating that notice u/s 148 of the Act, dated 31<sup>st</sup> March 2021, digitally signed on 1<sup>st</sup> April 2021, was issued under the old regime, by passing the requirements introduced by the Finance Act, 2021, effective, from 1<sup>st</sup> April 2021. Besides, the issuance of notice u/s 148 of the Act, for assessment year (AY) 2015-16, on 1<sup>st</sup> April 2021, for the escapement of income Rs.29,09,670/-, which is below the threshold limit of Rs.50 lacks, is beyond this limitation period of three years, therefore, the notice issued by the assessing officer, related to reassessment proceedings is invalid for A.Y 2015-16,



this limitation expired on 31<sup>st</sup> March 2019, w.e.f from 1<sup>st</sup> April 2021. In addition to this, Id. Counsel also submitted that notice u/s 148 of the Act, issued on or after 1<sup>st</sup> April 2021 for A.Y 2015-16 is invalid as it does not fall within the relief period, provided by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA), therefore, Id. Counsel for the assessee, prayed the Bench that reassessment order passed by the assessing officer may be quashed.

9. On the other hand, the Ld. DR for the Revenue has primarily reiterated the stand taken by the Assessing Officer, which we have already noted in our earlier para and is not being repeated for the sake of brevity.

10. I have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id. CIT(A) and other materials brought on record. I note that the Assessing Officer issued a notice under section 148 of the Income Tax Act, 1961, dated 31<sup>st</sup> March 2021, digitally signed on 1<sup>st</sup> April 2021, (on Thursday at 3.13 PM) for A.Y 2015-16, alleging income escapement of Rs.29,09,670/-. The notice u/s 148 of the Act is furnished by the Id. Counsel before the Bench. Therefore, I note that the reassessment notice, dated 31<sup>st</sup> March 2021, digitally signed on 1<sup>st</sup> April 2021, Thursday at 3.13PM, was issued under the old regime, by passing the requirements introduced by the Finance Act, 2021, effective from 1<sup>st</sup> April 2021. As per the Supreme Court ruling in Union of India vs. Ashish Agarwal, notices issued on or after 1<sup>st</sup> April 2021, under the old regime should be treated, as show-cause notices, under Section 148A(b) of the new regime, there by necessitating procedural compliance. The issuance of the notice without providing a show-cause notice or opportunity to respond makes the proceedings invalid and void ab-initio. The Finance Act, 2021 introduced a new reassessment framework under



Sections 147/151, effective from 1st April 2021. The Hon`ble Supreme Court has clarified in Ashish Agarwal case, [**Union of India & Ors. v. Ashish Agarwal** — Supreme Court of India (Decision Date: 4 May 2022)] that notices issued after this date are to be treated as show-cause notices under Section 148A(b) of the Act. Thus, any notice issued after this date must comply with the procedural mandates under the amended provisions, including obtaining approval under the revised section 151 of the Act. The amended provisions, under the new reassessment regime mandate that a notice under Section 148 must be issued with prior sanction from the specified authority under the revised Section 151 of the Act. The absence of approval under the amended section 151 of the Act, further invalidates the notice issued in this case.

11. I note that the new -regime, as outlined in section 148A of the Act, mandates a preliminary inquiry and issuance of a show-cause notice with an opportunity to respond before the issuance of notice under section 148 of the Act. As confirmed in Ashish Agarwal case (supra), that all the notices issued post-1<sup>st</sup> April 2021, must comply with these safeguards. Failure to follow this process renders the notice procedurally deficient and invalid. I note that under section 149(1)(a) of the Act, as amended by the Finance Act, 2021, the maximum permissible period for reopening an assessment, where the alleged income escapement is below Rs.50 lakh, is three years from the end of the relevant assessment year. The issuance of the notice for A.Y 2015-16, on 1st April 2021, for the escapement of income Rs.29,09,670 which is below Rs.50 lacks, is beyond this limitation period of three years, therefore, I note that it render the notice and any related reassessment proceedings invalid for A.Y 2015-16.

12. I note that the notice should have been issued u/s 148 of the Act, for A.Y 2015-16, on or before 31.03.2021. From 01.04.2021, the new section 148A(b)



came into force, so the time period of old Section 148, cannot be extended, as the law has ceased to exist on 31.03.2021. The Hon'ble Supreme Court in its judgment dated 04.05.2022 (supra) has not extended the time period of issue of notices under old Section of 148 of the Act. It has only instructed to follow the new procedure under the new Law. Therefore, the notice issued by assessing officer is time barred. I have already noted above that in case where the assessments have been reopened after three years from the end of the relevant assessment year, that is, till A.Y.2017-18, various conditions prescribed u/s 149(1)(b) of the Act has to be fulfilled, that is, assessing officer has to be in possession of books of accounts or other documents or evidences, which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment, amounts to or is likely to amount fifty lakh rupees or more for that year, revealing the escapement, more than Rs. 50 lakh, in form of asset. I note that the alleged income escaping assessment is Rs.29,09,670 only, which is less than Rs 50 lakh. Based on these facts and circumstances narrated above, I quash the reassessment proceedings initiated by the assessing officer, under section 147 of the Act, *being void ab-initio*.

13. In the result, appeal filed by the assessee is allowed.

**Order pronounced in the open court on 04/08/2025.**

Sd/-  
(Dr. A.L. SAINI)  
ACCOUNTANT MEMBER

Rajkot  
दिनांक/ Date: 04/08/2025  
Dkp Outsourcing Sr.P.S



**Copy of the Order forwarded to**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot

// True Copy //