

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH “SMC” : NEW DELHI)**

BEFORE SHRI MAHAVIR SINGH, HON’BLE VICE PRESIDENT

ITA No. 3418/Del/2025

Asstt. Year : 2015-16

Raj Rani Gupta,  
506, 2<sup>nd</sup> floor,

Sharap Bhawan, Commercial Complex,  
Azadpur, New Delhi

(PAN: AEQPG5421B)

**(Appellant)**

vs. ITO, Ward-35(1),  
Delhi

**(Respondent)**

Appellant by : Shri Parikshit Agarwal, CA &  
Ms. Shuriti Khandelwal, CA

Respondent by : Shri Sangeet Bansal, Sr. DR

|                       |            |
|-----------------------|------------|
| Date of Hearing       | 05.08.2025 |
| Date of Pronouncement | 05.08.2025 |

**ORDER**

This appeal filed by the Assessee is directed against the order dated 19.03.2025 passed by the NFAC, Delhi for the assessment year 2015-16 on the following grounds:-

1. That on the facts, circumstances and legal position of the case, the worthy CIT(A), NFAC in Appeal No. NFAC/2014-15/10221239 has erred in passing order dated 19.3.2025 in contravention of provisions of Section 250 of the Income Tax Act, 1961.
2. That on facts, circumstances and legal position of the case, Worthy CIT(A) has erred in upholding the action of the AO of initiating, continuing and then concluding the impugned assessment u/s. 148 r.w.s. 147 and hence the impugned assessment order deserves to be quashed.
3. That on law, facts and circumstances of the case, Worthy CIT(A) has erred in confirming the action of AO of making addition in the assessment order on an issue for which no

reasons had been recorded and at the same time, making addition on the issue on which reasons were recorded.

4. That on facts, circumstances and legal position of the case, Worthy CIT(A) has erred in confirming the impugned addition of Rs. 47,81,149/- as Long Term Capital Gain on account of alleged sale of immovable under SARFESI Act.
5. That on facts, circumstances and legal position of the case, the order passed by AO and then by Worthy CIT(A) deserves to be quashed since the same have been passed without affording reasonable opportunity of being heard to the appellant.
6. That the appellant craves leave for any addition, deletion, or amendment in the grounds of appeal on or before the disposal of the same.

2. Brief facts of the case are that the assessee is an individual and did not file any return of income for the assessment year 2015-16 within due date. In this case, the AO received some information through Project Insight Portal that assessee had sold immovable property for Rs. 72,20,000/-. Hence proceedings u/s. 148A of the Act was initiated and the AO passed order u/s. 148A(d) of the Act on 06.04.2022. On the same date, a notice u/s. 148 of the Act was issued. In response to the notice the assessee filed ITR on 27.4.2022 by declaring nil income. During the course of reassessment proceeding the assessee submitted that she stood as a guarantor and had mortgaged her properties on behalf of M/s Sainsons Pulp and Paper Ltd. for securing loan for that company from SBI. As per her submission, that loan availed by the company was later turned into NPA and subsequently her properties were sold by the banker under SARFAESI Act. Through e-auction on 06.03.2015. The assessee has submitted before the AO that, the entire sale consideration was directly paid by the purchaser to the bank and she did not receive any sale consideration and hence she did not offer any capital gain. In addition to the submission on merit, the assessee also challenged the validity of notice issued u/s 148 of the Act on 6.4.2022 by stating that it

was issued beyond the time limit of 6 years from the end of the relevant assessment year. However, the AO did not agree with the contention of the assessee and held that assessee was liable to take capital gain on the property that was transferred during the relevant assessment year as the property was belonging to the assessee. Accordingly, LTCG was computed into Rs. 47,81,149/-. Aggrieved with the aforesaid, assessee preferred the appeal before the Ld. CIT(A), who dismissed the appeal of the assessee on jurisdiction as well as on merits. Aggrieved, assessee is in appeal before the Tribunal.

3. At the time of hearing, ld. Counsel for the assessee submitted that Ld. Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre, has erred in law and facts of the matter while not quashing the notice issued on 06.04.2022 i.e. 6 years from the end of the assessment year i.e. notice for AY 2015-16 could not be issued after 31.3.2022 as per first proviso to sub-section (1) of Section 149 of the Act and thus, the notice u/s. 148 of the Act being barred by limitation in view of the first proviso to S. 149(1) of the Act and as such the notice issued u/s. 148 is bad in law and deserves to be quashed.

4. Per contra, Ld. DR relied upon the orders of the authorities below. He submitted that since the notice u/s. 148 of the Act was issued on 6.4.2022 i.e., within the extended limitation period ending on 07.04.2022, the notice is valid as per combined read of : First proviso to Section 149 (applicability of provisions of 149 prior to Finance Act-2021); Third proviso to Section 149 (exclusion of time given for reply against notice u/s. 148A(b); Fourth proviso to Section 149 (limitation period is to be extended by 7 days).

5. I have heard the rival contentions, perused the records including the case laws relied upon by the Ld. Counsel for the assessee. From perusal of the records, it reveals that it is an undisputed fact that the year

under consideration is relating to Assessment Year 2015-16, and accordingly, the limitation period available to the AO for issuance of notice under Section 148 of the Act, as per Section 149, was expired on 31.03.2022. However, the notice under Section 148 of the Act was issued on 06.04.2022, thus, the issuance of notice under Section 148 of the Act on 06.04.2022 is barred by limitation. Consequently, the reassessment proceedings culminating in the order under section 147 r.w.s. Section 144B of the Act are rendered void ab initio, having been initiated beyond the prescribed statutory period and lacking legal sustainability.

5.1 I draw my support from the decision in the case of *Ibibo Group Private Limited v. Assistant Commissioner Of Income Tax Circle 10-1* W.P.(C) 17639/2022, wherein, the Hon'ble Delhi High Court, categorically ruled the similar issue in favor of the assessee/appellant. The said judgment, inter alia, considered the Revenue's submissions before the Hon'ble Supreme Court in *Union of India v. Rajeev Bansal* [2024] 167 taxmann.com 70 (SC), specifically in paragraphs 19(e) and 19(f), thereby reaffirming that notices issued beyond the prescribed limitation period are legally unsustainable. The relevant extract of Paragraph 19 (e) and 19(f) is being reproduced hereunder:

"(e) The Finance Act, 2021 (2021) 432 ITR (Stat) 52 substituted the fold regime for reassessment with a new regime. The first proviso to section 149 does not expressly bar the application of Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, Section 3 of the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 applies to the entire Income-tax Act, including sections 149 and 151 of the new regime. Once the first proviso to section 149(1)(b) is read with Taxation and other Laws (Relation and Amendment of Certain Provisions) Act, 2020, then all the notices issued between April 1, 2021 and June 30, 2021 pertaining to the assessment years 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018 will be within the period of limitation as explained in the tabulation below:

| Assessment Year | Within Years | Expiry of Limitation read with TOLA for (2) (3) | Within Six Years (4) | Expiry of Limitation read with TOLA for (4)(5) |
|-----------------|--------------|---|----------------------|--|
| 2013-14         | 31.03.2017   | TOLA applicable not                             | 31.03.2020           | 30.06.2021                                     |
| 2014-15         | 31.03.2018   | TOLA applicable not                             | 31.03.2021           | 30.06.2021                                     |
| 2015-16         | 31.03.2019   | TOLA applicable not                             | 31.03.2022           | TOLA applicable not                            |
| 2016-17         | 31.03.2020   | TOLA applicable not                             | 31.03.2023           | TOLA applicable not                            |
| 2017-18         | 31.03.2021   | TOLA applicable not                             | 31.03.2024           | TOLA applicable not                            |

(f) The Revenue concedes that for the assessment year 2015-16, all notices issued on or after April 1, 2021 will have to be dropped and they will not fall for completion during the period prescribed under the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020.

5.2 In view of the aforesaid, the impugned assessment order dated 26.02.2024 as well as the notice dated 06.04.2022 issued under Section 148 of the Act in respect of AY 2015-16 deserve to be quashed. I further note that the aforesaid view has also been accepted by the Hon'ble Delhi High Court in the case of *Pratishtha Garg v. Assistant Commissioner of Income-Tax Central* (2025] 171 taxmann.com 264 Delhi), and ITAT Mumbai Bench decision in the case of *Income Tax Officer, Income Tax V. Sumitra Rajeshbhai Jain, Mumbai* [2025 SCC OnLine ITAT 1859).

5.3 I further note that even otherwise, the limitation period must be strictly construed in accordance with the statutory provisions of the Act as amended by the Finance Act, 2021, read with TOLA and judicial pronouncements of the Hon'ble Supreme Court.

5.4 However, in the present case, pursuant to the law laid down by the Hon'ble Apex Court in the case of *Union of India v. Ashish Agarwal* (supra), the AO initiated reassessment proceedings by issuing a notice under Section 148A(b) of the Act, requiring the assessee to furnish a

show-cause response as to why a notice under Section 148 should not be issued.

5.5 I further note that the Hon'ble Apex Court in the case of Union of India v. Rajeev Bansal (Supra), have mentioned the following points :-

\* Regarding period of limitation of issuance of statutory notice u/s 148 of the new law, it has been stated that in view of third proviso to section 149 of the new law, the period between date of issuance of original notice issued u/s 148 of the old law and due date or extended due date of filing of response to communication issued by assessing officer in pursuance of judgement of Hon'ble Apex Court in the case of UOI vs. Ashish Agarwal (Supra) shall be deemed to be excluded from the period of limitation for issuance of notice u/s 148 of the new law.

\* Also, in view of fourth proviso to section 149 of the new law, in peculiar cases, where immediately after exclusion of said period to be excluded from the period of limitation for issuance of notice u/s 148 of the new law, the period available with assessing officer for issuance of notice u/s 148 of the new law is less than 7 days, then the assessing officer shall be legally allowed to issue such statutory notice within 7 days from the end of said exclusion

\* Summarily, the surviving time period for issuance of valid notice u/s 148 of the new law, where original notice u/s 148 of the old law issued between 01.04.2021 to 30.06.2021 subsequently considered as show cause notice issued u/s 148A(b) of the new law in pursuance of judgement of Hon'ble Apex Court in the case of UOI vs. Ashish Agarwal (Supra), would be the time period between 30.06.2021 and the date of issuance of original notice u/s. 148 of the old law. And, where the aforesaid surviving period is less than 7 days, the same would be extended to 7 days. Thereby, such surviving period or extended surviving period shall be added to the due date or extended due date of filing response to communication issued in pursuance of judgement of Hon'ble Apex Court in the case of UOI vs. Ashish Agarwal (Supra) furnishing all material being relied upon by the Assessing Officer.

\* The Assessing Officers were required to issue the reassessment notice under Section 148 of the new regime within the time limit surviving under the Income Tax Act read with TOLA. All notices issued beyond the surviving period are time barred and liable to be set aside.

5.6 Accordingly, by virtue of period of limitation prescribed by the Hon'ble Apex Court in the case of UOI vs. Rajeev Bansal (Supra) and

correlated facts of the case of the assessee, it is abundantly clear that the statutory notice issued u/s 148 of the new law is barred by limitation and therefore, the same deserve to be quashed. Consequently, the assessment order dated 26.02.2024 also bad in law.

6. In the background of the aforesaid discussions and respectfully following the binding precedents, in my considered view, the impugned reassessment proceedings initiated under Section 148 of the Act vide notice dated 06.04.2022 is barred by limitation and deserve to be quashed and consequently, the reassessment order passed under Section 147 r.w.s Section 144B of the Act dated 26.02.2024 also deserve to be quashed. We hold and direct accordingly. Resultantly, the Legal Ground as argued by both the sides is decided in favour of the assessee by allowing the same.

7. As no other grounds have been argued by the Assessee's AR, hence, the same are not adjudicated.

8. In the result, the Assessee's appeal is allowed.

Order pronounced on 05.08.2025.

Sd/-

**(MAHAVIR SINGH)**  
**VICE PRESIDENT**

Date: 13.08.2025

***SRBhatnagar***

**Copy forwarded to: -**

1. Appellant
2. Respondent
3. DIT
4. CIT (A)
5. DR, ITAT

Assistant Registrar, ITAT,  
Delhi Bench