

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH MUMBAI**

**BEFORE: SHRI BEENA PILLAI, JUDICIAL MEMBER  
&  
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER**

ITA No. 2649/MUM/2025(A.Y: 2014-15)

&

ITA No. 2650/MUM/2025(A.Y: 2015-16)

*(Physical hearing)*

Rattan Jodharam Harchwani Block No. C 794, Room No. 1587, Near Netaji High School, Opp Jai Baba Dham, Ulhasnagar, 421005.	Vs.	Commissioner of Income Tax (Appeals), NFAC Delhi Income Tax Officer, Ward-2, Kalyan, Mohan Plaza, Khadakpada, Kalyan (W)-421301.
<b>PAN: ABQPH2916R</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri. Subramanian
Revenue by	Shri. Annavarani Kosuri, Sr. DR
Date of Hearing	04/09/2025
Date of Pronouncement	11/09/2025

**Order under section 254(1) of Income Tax Act**

**PER ARUN KHODPIA, ACCOUNTANT MEMBER:**

These captioned appeals are filed by the assessee against the separate orders of CIT(A)/NFAC Delhi vide order dated 20.02.2025, for the A.Y. 2014-2015 and 2015-2016, which in turn arises from the orders u/s. 147 r.w.s 144 of the Act passed by Income Tax Officer Ward 2(2), Kalyan on 20.03.2023.

1. The issues involved in the present appeals are identical, under similar facts and circumstances and pertains to the same assessee, therefore the aforesaid two appeals are taken up

together for hearing and are disposed off under this common order.

2. ITA 2649/MUM/2024 for the A.Y. 2014-15 has been taken up as the lead case, wherein our observations and decision shall apply *mutandis mutatis* to the second appeal i.e. ITA 2650/MUM/2025 for the A.Y. 2015-16.

3. The grounds of appeal raised in the lead case for the A.Y. 2014-15 are extracted as under:

*“1. On the facts and in the circumstances of the case and in law, the assessment order passed by the learned assessing officer under section 147 r.w.s.144 of the Act is bad in law.*

*2. On the facts and in the circumstances of the case and in law, the re-opening of assessment u/s. 148 of the Act is barred by limitation as prescribed under section 149 of the Act, therefore the assessment order passed is bad in law.*

*3. On the facts and under circumstances of the case and also in law, the learned C.I.T. (Appeals) has erred in setting aside the order to the records of assessing officer for fresh adjudication.*

*4. On the facts and under circumstances of the case and also in law, the Learned Assessing Officer was not justified in treating the credit entries of Rs.4,36,05,730/- appearing in the Bank Account as the unexplained investment under section 69 of the Act and by making an addition of Rs.4,36,05,730/- to the total income.*

*5. The appellant craves leave to add and/or amend the grounds of appeal before or at the time of hearing.”*

4. The brief facts of the case are that the assessee is a non-filer, whereas as per the information available on insight portal uploaded by DDIT Investigation unit-8(1), Mumbai, the assessee

has credits of this Rs. 4,36,05,730/- in his Account No. WCOD279. After verification of details, it is observed by the ld. AO that during the F.Y. 2013-14 (AY 2045-15) there are credits to the tune of Rs. 4,36,05,730/- in the Over Draft account of assessee maintained with Konark Urban Co-operative Bank Ltd. Since the assessee has not filed his return of income, it is comprehended by the Ld. AO that the amounts credited in assessee's account are unexplained. As per assessment order, a show cause notice u/s. 148A(b) was issued to the assessee dated 19.03.2022, thereafter the order u/s. 148A(d) has been passed on 30.03.2022 with approval of Principal Commissioner of Income Tax -1, Thane and accordingly the case was reopened by issuance of notice u/s. 148 of the Act. Subsequently the case was assigned to National Faceless Assessment Centre, however due to non-availability of digital footprint, the NeFAC could not complete the assessment and has been re-assigned to the office of ld. Jurisdictional AO. Accordingly notices u/s. 142(1) of the Act on 16.03.2022 and 21.02.2023 along with annexures were issued to the assessee. In due course a final show cause notice was also issued to the assessee on 02.03.2023, intimating that the assessment shall be completed u/s. 144, if no compliance is made by 17.03.2023. The assessee never complied to any of the notices/letter/orders issued from time to time. The assessee failed to produce any supporting evidence in response to deposit in saving bank account in A.Y. 2014-15, in such a situation the AO has no option but to complete the assessment on *ex-parte* basis u/s. 144. The assessment therefore has been completed on 20.03.2023 making an addition on account of unexplained

investment u/s. 69 of the Act for the amount credited in the bank account of assessee for Rs. 4,36,05,730/-.

5. Aggrieved with the aforesaid assessment by the AO, assessee preferred an appeal before the ld. CIT(A), however the contentions raised by the assessee could not find favour with the ld. CIT(A) and since the order passed by ld. AO was on *ex-parte* basis u/s. 144, the ld. CIT(A) set aside the matter to the file of AO for fresh assessment with another opportunity to the assessee to furnish necessary details before the AO.

6. Being dissatisfied in the order of ld. CIT(A), the assessee has preferred the appeal before ITAT which is under consideration before us in the present matter.

7. At the outset ld. AR (Learned Authorized Representative) on behalf of the assessee raised a legal issue that the assessment order passed by ld. AO u/s. 147 r/w section 144 was bad in law. That the reopening u/s. 148 of the Act is barred by limitation as prescribed u/s. 149 of the Act. Therefore, the assessment order passed is bad in law.

8. In order to substantiate the aforesaid contention ld. AR placed before us the return submission showing chronology of events, factual matrix and the points to be urged, the same is extracted here under for the sake of compliance :

**CHRONOLOGY OF EVENTS**

<b>SR. NO.</b>	<b>DATE</b>	<b>EVENT</b>
1.	08.04.2021	Notice u/s 148 of the act issued.
2.	16.03.2022	Notice u/s 142(1) of the act issued.
3.	19.03.2022	Notice u/s 148A(b) of the act though stated in the assessment order to have been issued is neither available in the portal nor served on the assessee.
4.	30.03.2022	Order u/s 148A(d) of the act though stated in the assessment order to have been passed, is neither available in the portal nor served on the assessee.
5.	21.02.2023	Notice u/s 142(1) of the act issued.
6.	02.03.2023	Show Cause Notice issued to show cause as to why assessment should not be completed u/s 144 of the Act.
7.	20.03.2023	Assessment Order u/s 147 r.w.s. 144 of the act passed.

*“A perusal of the above chronology of events, would reveal that the proceedings for the year under consideration commenced by issuance of a notice dated 08.04.2021 u/s 148 of the act. This notice appears to have not been proceeded further with, except for a notice dated 16.03.2022 issued u/s 142(1) of the act..*

*Thereafter, on the basis of certain information on INSIGHT PORTAL, the learned A.O. observed that the assessee has not filed any return of income and the credits in the assessee's OD bank account remained unexplained and commenced assessment proceedings by issuance of a show cause notice dated 19.03.2022 u/s 148A(b) of the act, followed by an order dated 30.03.2022 passed u/s 148A(d) of the act. Here, it may not be out of place to mention that neither any notice dated 19.03.2022 issued u/s 148A(b) nor any order dated 30.03.2022 passed u/s 148A(d) of the act is either available on the portal or have been served on the assessee. Here it may have also to be mentioned that though it is stated in the assessment order that "this case was reopened by issue of notice u/s 148 of the Income Tax Act, 1961", no such notice issued after the passing of order u/s. 148A(d) is either available on the portal or any such notice has been served on the assessee.*

**POINTS TO BE URGED**

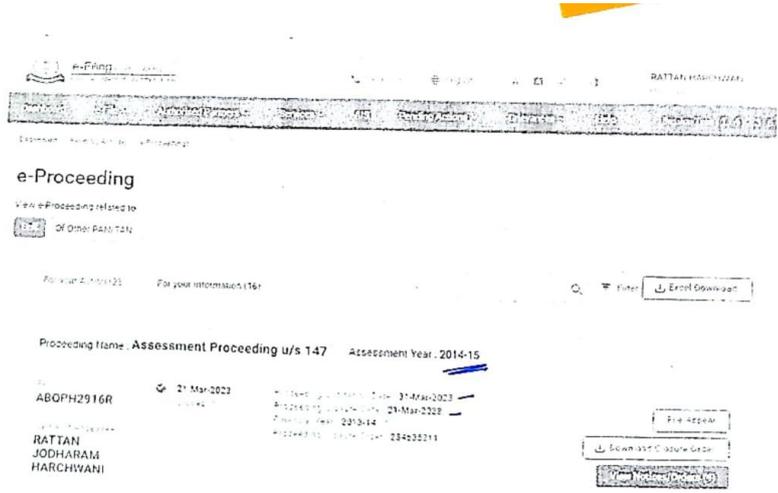
*1) The proceedings initiated originally vide 148 notice dated 08.04.2021 is invalid and bad in law, for the same has not been proceeded further with and also the procedure laid down u/s 148A has not been followed.*

*II) The proceedings initiated u/s 148A by issuing notice u/s. 148A(b) followed by an order u/s 148A(d) of the act, is also invalid as no notice u/s 148 of the act has been issued subsequent to the passing of order u/s 148A(d) of the act.*

*In view of the above, it is submitted that the proceedings initiated u/s 147 of the act is invalid and bad in law and consequently the assessment order as well.”*

9. Referring to the aforesaid facts, it is submitted by the ld. AR that the notice u/s. 148 issued on 08.04.2021 was not proceeded further with, except a notice dated 16.03.2022 issued u/s. 142(1) of the Act. It is submitted by the ld. AR that the original notice u/s. 148 issued on 08.04.2021 would be invalid and bad in law as the same has not been proceeded with further and also the mandatory procedure laid down u/s. 148A has not been followed. To substantiate that the procedure laid down u/s. 148A(b) was not followed by the revenue. The ld. AR placed before us copies of screenshot of e-proceeding from the ITBA portal for A.Y. 2014-15, according to which no notice u/s. 148A(b) or order u/s. 148A(d) of the Act were ever issued to the assessee. Although it is claimed in the assessment order by the AO that such notice/orders were issued on 19.03.2022 and 30.03.2022. It was the submission that under the mandatory provision of faceless scheme, as the reopening proceedings originated after 01.04.2021, therefore, the procedure lead down u/s. 148A was to be followed by the department, but there was no evidence to show that such procedure was ever complied with. For the sake of reference, copy of the screenshot of ITBA

portal and copy of notice u/s 148 dated 08.04.2021 has been placed before us, are culled out here under:



Jodhram 23/03/2025 11:17

Income Tax Portal - Government of India - Your Taxation, Our Responsibility



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Call Us

English

## View Notices for e-Proceedings

Proceeding Name Assessment Proceeding u/s 147	PAN ABQPH2916R	Name of Assessee RATTAN JODHARAM HARCHWANI	Assessment Year 2014-15
Financial Year 2013-14			

Notice/ Communication Reference ID : 100058696081

147  
Notice u/s

ITBA/AST/F/147(SCN)/2  
022-23/1050340314(1)  
Document reference ID

Description : [ITBA]Show Cause Notice for  
Proceedings u/s 147of Income Tax Act 1961.  
Issued On : 02-Mar-2023  
Response Due Date : 17-Mar-2023

Notice/Letter Pdf

Notice/ Communication Reference ID : 100058088459

142(1)  
Notice u/s

ITBA/AST/F/142(1)/202  
2-23/1049953659(1)  
Document reference ID

Description : [ITBA]Notice u/s 142(1)of  
Income Tax Act 1961.  
Issued On : 21-Feb-2023  
Response Due Date : 08-Mar-2023

Notice/Letter Pdf

Notice/ Communication Reference ID : 100046015503

142(1)  
Notice u/s

ITBA/AST/F/142(1)/202  
1-22/1040907049(1)  
Document reference ID

Description : [ITBA]Notice u/s 142(1)of  
Income Tax Act 1961.  
Issued On : 16-Mar-2022  
Response Due Date : 21-Mar-2022

Notice/Letter Pdf

Notice/ Communication Reference ID : 100033907866

148  
Notice u/s

ITBA/AST/S/148/2021-  
22/1032304597(1)  
Document reference ID

Description : [ITBA]Notice under section 148  
of the Income Tax Act, 1961  
Issued On : 09-Apr-2021

Notice/Letter Pdf

< Back



26/00  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
INCOME TAX DEPARTMENT  
OFFICE OF THE INCOME TAX OFFICER  
WARD 2(2), KALYAN/

To, RATTAN JODHARAM HARCHWANI BLO NO C 794 R NO 1587 NR NETAJI HIGH SCHOOL , OPP JAI BABA DHAM ULHASNAGAR THANE 421005 , Maharashtra India			
PAN: ABQPH2916R	AY: 2014-15	Dated: 08/04/2021	DIN & Notice No : ITBA/AST/S/148/2021-22/1032304597(1)

Notice Under Section 148 Of The Income Tax Act, 1961

Sir/ Madam/ M/s,

Whereas I have reasons to believe that your Income chargeable to Tax for the Assessment Year 2014-15 has escaped Assessment within the meaning of section 147 of the Income Tax Act, 1961.

I, therefore, propose to assess/ re-assess the income/ loss for the said Assessment Year and I hereby require you to deliver to me within 30 days from the service of this notice, a return in the prescribed form for the said Assessment Year.

This notice is being issued after obtaining the necessary satisfaction of the PCIT, Thane-1

USHA DEVADAS WARRIER  
WARD 2(2), KALYAN/

(In case the document is digitally signed please refer Digital Signature at the bottom of the page)

10. The aforesaid contentions of the Id. AR are confronted with the Id. Sr. DR, to which he requested for some time to submit a report on 26.08.2025, however on the next hearing dated 01.09.2025, again sometime was requested by the Id. Sr. DR, the matter then was fixed for hearing on 04.09.2025, but again no report could be furnished by Ld. Sr. DR, however it was submitted that after initiation of proceeding under faceless regime it is incomprehensible to comprehend that the reopening assessment u/s. 148 was completed without issuance of notice

u/s. 148A(b) and order u/s. 148A(d) of the Act, therefore this is a matter for further verification by the AO from records that why such notice/order are not reflecting on ITBA portal in the ID of the assessee. Therefore, some more time is requested by the ld. Sr. DR.

11. We have considered the rival submissions, perused the material available on record and the contention raised by both the parties. Since the matter has been listed for hearing for several times and no report of clarification could be furnished by the revenue, we find that the as per the screenshot of the ITBA portal furnished by the ld. AR, the compliance of proceedings required u/s. 148A of the Act are not followed by the department, further the revenue is unable to produce any proof for such proceedings before us. The dates mentioned in the assessment order for issuance of notice u/s. 148A(b) and order u/s. 148A(d) could not be verified in absence of copy of such notice/order. Consequently, we find force in the contention raised by the AR that such proceedings were never completed / complied by the revenue, under such circumstances the violation of mandatory procedure of the Act by the revenue brings the proceedings within the ambit of illegality, bad in law and void ab-initio. The AO, therefore, has no valid jurisdiction with him to compete the reassessment proceedings u/s. 148, which are in contradiction to the mandatory provision of the Act. In such facts and circumstances, we are of the considered view that order passed u/s. 147 r.w.s 144 of the Act dated 20.03.2023 was an order bad in law and nullity. The assessment passed without

valid jurisdiction with the AO is liable to be quashed and we do so.

12. Before parting with, as the ld. DR has requested for further time for submitting the report from the AO regarding compliance of provision and procedure of section 148A, we find it appropriate to grant liberty to the revenue to verify such facts and in case there is something contrary available on record as against the contention and screenshot furnished by the Ld AR, the same may be furnished before the Tribunal by way of a Misc. Application (MA) to recall the present matter for afresh adjudication.

13. In the result, the appeal of the assessee stands allowed on legal aspect. Consequently, the other grounds of appeal raised by the assessee are rendered as academic and does not warrants any adjudication.

14. Resultantly, the appeal in ITA No. 2649/M/2025 of the assessee stands allowed.

15. Since, ITA No 2650/M/2025 for AY 2015-16, is at parity with the aforesaid appeal in ITA 2649/M/2025, being on similar facts, circumstances and issues involved therein, therefore our decision herein above shall have equal applicability to ITA 2650/M/2025, also. Accordingly, the same stands allowed.

16. In Combined result both the appeals of assessee are allowed, in terms of our aforesaid observations.

Order pronounced in open court on 11.09.2025.

**Sd/-**  
**(BEENA PILLAI)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(ARUN KHODPIA)**  
**ACCOUNTANT MEMBER**

Mumbai; Dated 11/09/2025  
Disha Raut, *Steno*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**