

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN BENCH: DEHRADUN**

**BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.112/DDN/2025
(ASSESSMENT YEAR: 2015-16)

Acharya Balkrishna Kripalu Bagh, Kriplau Bagh Kankhal, Haridwar-249408, Uttarakhand. PAN:AKJPB0992K	Vs.	DCIT, Circle-1(1)(1), Dehradun.
(Appellant)		(Respondent)

Assessee by	Shri Salil Agarwal, Sr. Adv., Shri Saliesh Gupta and Shri Uma Shankar, Adv.
Department by	Shri A.S. Rana, Sr. DR

Date of hearing	09.09.2025
Date of pronouncement	24.09.2025

ORDER

PER MANISH AGARWAL, AM:

This Appeal is filed by the assessee against the order of Learned Commissioner of Income Tax (Appeal), [“CIT(A)”, in short] National Faceless Appeal Centre (NFAC), Delhi dated 11.04.2025 passed u/s 250 of the Income Tax Act, 1961 (“the Act”) for Assessment Year 2015-16.

2. Brief facts of the case are that assessee is a resident individual and filed his return of income on 17.03.2016 declaring total income of Rs.97,40,460/. The case of the assessee was reopened u/s 147 of the Act by issue of notice u/s 148 on 28.06.2021, copy of the same is placed in PB-2 of the assessee. In terms of the decisions of Hon’ble Supreme Court in the case of Union of India and Ors. vs. Ashish Agarwal in Civil Appeal No.3005/2022 dated 04.05.2022, the said notice was deemed to have been issued as show cause notice u/s 148A(b) of the Act and

consequently, after receiving the submission from the assessee, order u/s 148A(d) was passed on dated 29.7.2022 and notice u/s 148 was issued on 29.07.2022 after obtaining the approval u/s 151 of the Act, copy of the same is placed at PB pages-13-17. Thereafter, the re-assessment proceedings were completed, and order was passed u/s 147 r.w.s. 144B of the Act wherein additions of Rs. 50.00 lacs u/s 68 as unexplained cash credits and Rs. 1,25,000/- as unexplained expenditure u/s 69C for obtaining such loan were made in the hands of the assessee. Against the said order an appeal was filed before the Ld. CIT(A) who dismissed the appeal of the assessee.

3. Aggrieved by the said order, assessee is in appeal before the Tribunal wherein the assessee has taken following grounds of appeal:

“1. That the learned Commissioner Income Tax (Appeals) has grossly erred both in law and on facts in sustaining an assessment under section 144/148 of the Act at an income of Rs.1,48, 65, 460/- as against returned income of Rs.97, 40, 460/-.

2. That the learned Commissioner of Income Tax (Appeals) has further erred both in law and on facts in upholding the initiation of proceedings under section 147 of the Act, in as much as, the instant reassessment proceedings were without satisfying the statutory pre-conditions as envisaged under the Act, being barred by limitation as per first proviso to section 149 of the Act.

2.1 That the learned Commissioner of Income Tax (Appeals) has further failed to appreciate the fact that the proceedings initiated under section 148A(b)/(d) of the Act were without application of mind, with no fresh tangible material and were issued at the behest of superior authority, further, there were many factual and legal inaccuracies in the reasons recorded which also shows total non-application of mind by superior authority in granting approval for reopening of assessment, as such, the reassessment proceedings are a mere pretence and deserves to be quashed.

3. That the learned Commissioner of Income Tax (Appeals) has further erred both in law and on facts in sustaining an addition of Rs. 50, 00, 000/- under section 69 of the Act on account of unsecured loan taken and also repaid by appellant from M/s Madhurnath Infrastructure Pvt. Ltd., as alleged accommodation entry, which addition is based on misappreciation of facts and deserves to be deleted, as such.

3.1 That the learned Commissioner of Income Tax (Appeals) has failed to appreciate the fact that no summons were issued by learned AO or by learned CIT (A) in order to verify the unsecured loan so received during the impugned assessment year, whereas all the necessary documents were filed before lower authorities, thus, it would be clear that the order so passed is clearly perverse and not backed by proper investigation and verification and as such is liable to be dismissed, as such.

3.2 That the learned Commissioner of Income Tax (Appeals) has further failed to appreciate the fact that on similar allegations, proceedings were initiated for AY 2016-17, wherein, no adverse orders were passed for the said assessment year and as such, the instant proceedings was also bad in law and should have been dropped, as such.

3.3 That the learned Commissioner of Income Tax (Appeals) has further erred in sustaining the aforesaid addition purely on assumptions, presumptions, surmises and conjectures and relying on materials/ statements obtained behind the back of assessee appellant which was never confronted during the course of assessment proceedings and hence, the addition so sustained made is unsustainable and liable to be deleted.

4. That the learned Commissioner of Income Tax (Appeals) has further erred in sustaining alleged commission to obtain accommodation entry of a sum of Rs. 1, 25, 000/-, which addition is completely based on suspicion and surmises and contrary to material available on record and thus, is misplaced in law and should have been deleted, as such.

5. That the learned Commissioner of Income Tax (Appeals) has erred in law and on facts in sustaining additions in the hands of assessee, without giving any fair and proper opportunity of being heard to the appellant and further, erred in sustaining the aforesaid addition purely on assumptions, presumptions, surmises and conjectures and hence, the addition so sustained made is unsustainable and liable to be deleted.”

4. Heard both the parties at length and perused the material available on record. It is seen that in the instant case, the appeal of the assessee was related to Assessment Year 2015-16 wherein after passing the order u/s 148A(d), a notice u/s 148 was issued on 28.07.2022. In the case of Union of Indian & Ors. vs. Rajiv Bansal (supra), the Hon’ble Supreme Court has held that provisions of Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, would not apply for Assessment Year 2015-16. The Govt. had made statement that no proceedings were taken up for Asst. Year 2015-16 during the course of hearing before the Hon’ble Supreme Court in the case of Rajiv Bansal (supra). From the perusal of the observations of the Hon’ble Supreme Court and the admission of the Revenue, notice issued u/s 148 for Assessment Year 2015-16 is bad in law.

5. The Co-ordinate Bench of the Tribunal in the case of Sunita Salhotra vs. ITO in ITA No.4603/Del/2024, under identical facts hold the notice issued u/s 148 as bad in law by making following observations:

“6. We have heard the rival submissions and perused the materials available on record. In the instant case, the appeal of the assessee was

dismissed ex-parte by the Ld. CIT(A) for want of prosecution, however, since, the legal ground raised with regard to the legality of notices u/s 148 of the Act could be decided, therefore, we proceed to decide the appeal of assessee on legal issue. The assessee on legal issue. It is an admitted fact that earlier, the notice u/s 148 in the case of assessee was issued on 30/06/2021 which was dropped and proceedings u/s 148 of the Act were initiated in terms of order of Hon'ble Supreme Court in the case of Union of India vs. Ashish Agarwal and finally the notice u/s 148 was issued on 25/07/2022. The Ld. Additional Solicitor General of India in the case of Rajiv Bansal (supra) has made categorical statement at Bar before the Hon'ble Supreme Court that all the notices issued for Asst. Year 2015-16 on or after 1st April 2021 will be dropped, however, in the instant case, no such action has been taken and re-assessment order has been framed in the case of the assessee on the basis of the notice issued u/s 148 of the Act on 25/07/2022. The relevant extract of the assertion made by the Ld. Additional Solicitor General of India before the Hon'ble Supreme Court as reproduced in para 19(f) of the said order is as under:

“19. Mr. N. Venkataraman, learned Additional Solicitor General of India, made the following submissions on behalf of the Revenue:

- a. Parliament enacted TOLA as a free-standing legislation to provide relief and relaxation to both the assesses and the Revenue during the time of COVID-19. TOLA seeks to relax actions and proceedings that could not be completed or complied with within the original time limits specified under the Income Tax Act;*
- b. Section 149 of the new regime provides three crucial benefits to the assesses: (i) the four-year time limit for all situations has been reduced to three years; (ii) the first proviso to Section 149 ensures that re-assessment for previous assessment years cannot be undertaken beyond six years; and (iii) the monetary threshold of Rupees fifty lakhs will apply to the re-assessment for previous assessment years;*
- c. The relaxations provided under Section 3(1) of TOLA apply "notwithstanding anything contained in the specified Act." Section 3(1), therefore, overrides the time limits for issuing a notice under Section 148 read with Section 149 of the Income Tax Act;*
- d. TOLA does not extend the life of the old regime. It merely provides a relaxation for the completion or compliance of actions following the procedure laid down under the new regime;*
- e. The Finance Act 2021 substituted the old regime for re-assessment with a new regime. The first proviso to Section 149 does not expressly bar the application of TOLA. Section 3 of TOLA 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 TOLA, then all the notices issued between 1 April 2021 and 30 June 2021 pertaining to 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 (1)	Within 3 Years (2)	Expiry of Limitation read with TOLA for (2) (3)	Within six Years (4)	Expiry of Limitation read with TOLA for (4) (5)
2013-2014	31.03.2017	TOLA not applicable	31.03.2020	30.06.2021
2014-2015	31.03.2018	TOLA not applicable	31.03.2021	30.06.2021
2015-2016	31.03.2019	TOLA not applicable	31.03.2022	TOLA not applicable
2016-2017	31.03.2020	30.06.2021	31.03.2023	TOLA not applicable
2017-2018	31.03.2021	30.06.2021	31.03.2024	TOLA not applicable

f. The Revenue concedes that for the assessment year 2015-16, all notices issued on or after 1 April 2021 will have to be dropped as they will not fall for completion during the period prescribed under TOLA;

- g. Section 2 of TOLA defines "specified Act" to mean and include the Income Tax Act. The new regime, which came into effect on 1 April 2021, is now part of the Income Tax Act. Therefore, TOLA continues to apply to the Income Tax Act even after 1 April 2021; and
- h. Ashish Agarwal (*supra*) treated Section 148 notices issued by the Revenue between 1 April 2021 and 30 June 2021 as show-cause notices in terms of Section 148A(b). Thereafter, the Revenue issued notices under Section 148 of the new regime between July and August 2022. Invalidation of the Section 148 notices issued under the new regime on the ground that they were issued beyond the time limit specified under the Income Tax Act read with TOLA will completely frustrate the judicial exercise undertaken by this Court in Ashish Agarwal (*supra*).

Looking to the facts and considering the assessment year involved is 2015-16, notice issued in the case of originally on 30/06/2021 and later on 25/07/2022 which both the dates have fallen on or after 1st April, 2021, therefore, both the notice deserves to be dropped in view of the admission made by the Revenue before the Hon'ble Supreme Court. Further, for Assessment Year 2015-16, no notice u/s 148 of the Act could be issued after the expiring of six years from the end of the relevant assessment year which limitation expired on 31st March, 2022. As the Hon'ble Supreme Court in the case of Rajiv Bansal (*supra*) has observed that Tola is not applicable for Asst. Year 2015-16, therefore, even otherwise under the old provisions of section 149 of the Act, the notice issued u/s 148 of the Act for Asst. Year 2015-16 on 25/07/2022 is barred by limitation. In view of these facts, the notice issued u/s 148 of the Act dated 25/07/2022 is hereby quashed. Accordingly, legal ground taken by the assessee is allowed."

6. Further the Co-ordinate Bench of the ITAT, 'B' Bench in the case of Guru Charan Singh vs. ITO in ITA No.2846/Del/2025 & 2847/Del/2025 has made the following observations:

“2. We notice during the course of hearing that there arises the first and foremost issue of validity of the impugned reopening(s) itself set into motion by the learned Assessing Officer(s) vide section 148 notices issued on 21st & 20th July, 2022, case-wise respectively. This is for the precise reason that the department already appears to have conceded the very issue of limitation aspect in Union of India Vs Rajiv Bansal (2024) 469 ITR 46 (SC) that the provision of Taxation and Other Laws [Relaxation and Amendment of Certain Provisions] Act, 2020 "TOLA" would not apply for assessment year 2015-16 herein. It further emerges that the very issue between the parties is no more res integra in light of the tribunal's recent learned coordinate bench's order dated 23.07.2025 passed in ITA No. 2307/Del/2025 (Sh. Deepak Agarwal vs. DCIT) having quashed a similar reopening therein, reading as under:

“2. The Ld. Counsel for the assessee, at the outset, submits that in the case of the assessee a notice u/s 148 was issued on 30.07.2022 under new law which is barred by limitation since the provisions of taxation and other laws (relaxation and amendment of certain provisions) (TOLA) are not applicable for the AY 2015-16 as held by the Hon'ble Jurisdictional High Court in the case of Make My Trip (India) Put. Ltd. in WP(c) 2558/2023 dated 24.03.2025.

3. Ld. Counsel further submits that recently the Hon'ble Supreme Court in the cases of Deepak Steels & Power Ltd. Vs. CBDT and Others in Civil Appeal No.5177/2025 dated 02.04.2025 noted that the Revenue made a concession before the Hon'ble Supreme Court while disposing off the appeal in the case of Union of India & Others Vs. Rajiv Bansal (2024) (SCC) Online SC 2693, that for the AY 2015-16 notices issued on or after 01.04.2021 will have to be dropped as they would not fail for completion during the period prescribed under the TOLA. Ld. Counsel also submitted that similar view has been taken by the Hon'ble Supreme Court in the case of ACIT Vs. Nehal Rashid Shah in SLP (Civil) Diary No. (S) 57209/2024 dated 4.4.2025. Therefore, it is submitted that in the light of these decisions the reassessment framed for the AY 2015-16 based on the notice issued u/s 148 of the Act dated 30.07.2022, is time barred and bad in law.

4. Ld. DR supported the orders of the Assessing Officer.

5. Heard rival contentions, perused the orders of the authorities below. Admittedly in this case notice u/s 148 was issued on 30.07.2022 under new law based on which the reassessment for the AY 2015-16 was framed by the AO on 31.5.2023. The reassessment was challenged before the Ld. CIT(Appeals) and the Ld. CIT(Appeals) dismissed the appeal for non-prosecution by the assessee.

6. In the case of Make My Trip (India) Pvt. Ltd. Vs. DCIT (supra) the Jurisdictional High Court considered whether reassessment completed for the AY 2015-16 based on a notice issued u/s 148 and the viz. a viz. the applicability of the provisions of TOLA and based on the concession of the Revenue that for the AY 2015-16 all the 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 the TOLA, held that the notice issued under 148 was beyond the period of limitation and consequently the same is liable to be set aside.

7. Further the Hon'ble Supreme Court in the case of Deepak Steel & Power Ltd. Vs. CBDT & Others (supra) quashed the notices issued u/s 148 observing as under: -

"2. These appeals arise from 'the order passed by the High Court of Orissa at Cuttack in Writ Petition (C) Nos. 2446 of 2823, 2543 of 2023 dated 1.2.2023 and 2544 of 2023 dated 10.02.2023 respectively by which the High Court disposed of the original writ petitions in the following terms:-

"1. The memo of appearance filed by Mr. S. S. Mohapatra, learned Senior Standing Counsel for Revenue Department on behalf of Opposite Parties is taken on record.

2. In view of the order passed by this Court on 1st December, 2022 in a batch of writ petitions of which W.P. (C) Mo.9191 of 2022 (Kailash Kedia v. Income Tax Officer) was a lead matter and the subsequent order dated 10th January, 2023 passed in W.P.(C) Mo.36314 of 2022 (Shiv Mettalicks Pvt. Ltd., Rourkela v. Principal Commissioner of Income Tax, Sambalpur), the Court declines to entertain the present writ petition, but leaves it open to the Petitioner to raise all grounds available to the Petitioner in accordance with law including the grounds urged in the present petition at the appropriate stage as explained by the Court in those orders.

3. The writ petition is disposed of in the above terms."

3. We heard Mr. Saswat Kumar Acharya, the learned counsel appearing for the appellants (assessee) and Mr. Chandrashekhara, the learned counsel appearing for the revenue.

4. The learned counsel appearing for the revenue with his usual fairness invited the attention of this Court to a three judge bench decision of this Court in Union of India and Ors. v. Rajeev Bansal, reported in 2024 SCC OnLine SC 2693, more particularly, paragraph 19(f) which reads thus:-

"19. (f) The Revenue concedes that for the assessment year 2015-2016, all notices issued on or after April 1, 2021 will have to be dropped as 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. As the revenue made a concession in the aforesaid decision that is for the assessment year 2015-2016, all notices issued on or after 1st April, 2021 will have to be dropped as they would not fall for completion during the period prescribed under the taxation and other laws (Relaxation and Amendment of certain Provisions Act, 2020). Nothing further is required to be adjudicated in this matter as the notices so far as the present litigation is concerned is dated 25.6.2021.

6. In view of the aforesaid, in such circumstances referred to above the original writ petition nos.2446 of 2023, 2543 of 2023 and 2544 of 2023 respectively filed before the High Court of Orissa at Cuttack stands allowed.

7. The impugned notice therein stands quashed and set aside."

8. Above decisions squarely applies to the fact situation of the assessee and therefore respectfully following the above decisions, we hold that the notices

issued u/s 148 on or after 1.4.2021 for reopening the assessment for the AY 2015-16 are barred by limitation and consequently the reassessment made based on such notices are bad in law and void ab initio. Thus, the impugned reassessment order having been made pursuant to notice issued u/s 148 dated 30.07.2022 the reassessment order is hereby held to be bad in law and the same is quashed. Ground Nos. B, C & D of grounds of appeal of the assessee are allowed.”

3. We adopt the above extracted detailed reasoning mutatis mutandis to quash both these reopening(s) in the instant twin cases in very terms. All the Revenue's vehement contentions supporting the same are hereby rejected.

All other pleadings between the parties on merits etc. stand rendered academic.

4. These twin assessee's as many appeals ITA Nos. 2846/Del/2025 & 2847/Del/2025 are allowed in above terms. A copy of this common order be placed in the respective case files.”

7. As the facts are identical, thus, by respectfully following the judgments of the Hon'ble Supreme Court in the case of Rajiv Bansal (supra) and further of the Co-ordinate Bench as stated above, we hereby quashed the notice u/s 148 dt. 28.06.2021 for Assessment Year 2015-16 in the case of the assessee. Accordingly, the additional grounds of appeal No.2 and 2.1 taken by the assessee are hereby allowed.

8. The remaining grounds of appeal become academic, thus, not adjudicated.

9. In the result appeal of the assessee is allowed.

Order pronounced in the open Court on 24.09.2025.

Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Dated: 24.09.2025.

PK/Sr. Ps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, DEHRADUN