

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC", NEW DELHI  
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT

ITA No. 4366/Del/2025 (Asstt. Year : 2017-18)

Shri Malkiat Singh,  
WZ 46/3B, Krishna Puri,  
Gali No. 1, Tilak Nagar,  
Delhi – 110 018  
(PAN:BSRPS2158H)  
**(Appellant)**

vs. ITO, Ward 45(1),  
New Delhi

**(Respondent)**

Appellant by : Sh. P.K. Bansal, Adv. & Sh. Tarun Sharma, CA  
Respondent by : Ms. Harpreet Kaur Hansra, Sr. DR

Date of Hearing	09.09.2025
Date of Pronouncement	08.10.2025

**ORDER**

This appeal has been filed by the Assessee against the order dated 16.06.2025 passed by the NFAC, Delhi relating to assessment year 2017-18.

2. The first issue in this appeal of the assessee is as regards to order of NFAC confirming the action of the Assessing Officer in upholding the validity of reassessment proceedings initiated u/s. 147 r.w.s. 148 of the Act, although the reopening is barred by limitation being escaped income was less than Rs. 50 lacs and does not fall under the extended time limitation u/s. 149(1)(b) of the Act. For this, the assessee has raised the following two grounds:-

- (i) That the NFAC has erred in law and on facts in upholding the validity of reassessment proceedings initiated under section 148 of the Act without appreciating that the notice under section 148 was issued beyond the limitation

prescribed under section 149(1)(a), and hence, is bad in law and void ab initio.

- ii) That the Ld. CIT(A) has erred in failing to appreciate that the income alleged to have escaped assessment was less than Rs. 50 lacs, and therefore, the extended time limit under section 149(1)(b) was not applicable to the appellant's case. The proceedings initiated under section 148 are thus barred by limitation and liable to be quashed.

3. Brief facts of the case are that assessee has not filed ITR u/s. 139(1) of the Act. The assessment was completed by the Assessment Unit at an income of Rs. 35,91,700/- out of which Rs. 35,12,500/- was assessed as short term capital gain. Originally notice under section 148A(b) dated 09.02.2024 was issued stating therein that the income had escaped the assessment as per the provisions of Section 147 of Income Tax Act, 1961 in respect of sale, purchase of properties and contractual receipts as under:-

- Sale of immovable property	Rs. 1,02,45,000/-
- Purchase of immovable property	Rs. 32,20,000/-
- TDS u/s. 194C	Rs. 79,200

4. Against the assessment, assessee preferred the appeal before the Ld. CIT(A)/NFAC, who vide its impugned order dated 16.06.2025 has partly allowed the appeal of the assessee. Further aggrieved, the assessee has filed present appeal before the Tribunal.

5. The ld. AR of the assessee submits that he has raised legal ground that notice under Section 148 of the Act was issued on 09.02.2024, which clearly beyond the period of limitation. In the notice under Section 148, the Assessing officer recorded that income chargeable to tax has escaped assessment and that the order under sub-section (d) of Section 148A of the Act has been passed in case of assessee on 14/03/2024. In response to such notice, the assessee submitted

that in this case the income escaped assessment is below Rs. 50.00 lacs, therefore, the notice dated 09.02.2024 was issued for A.Y. 2017-18 whereas the last date for issuing the notice under section 148A(b) was upto 31.03.2021 as the income escaped assessment for the said year was much below Rs. 50,00,000/-. It was further submitted that during proceedings under section 148A(b) it was submitted that department is not correct as the assessee had not purchased any property during the year under consideration which is alleged to have been purchased for Rs. 32,20,000/-. Further, in the said reply, an objection was raised that the income which can be considered as escaped assessment is less than Rs. 50 lacs so case of the assessee is covered by the Provision of Clause of Sub Section 1 of Section 149 of Income Tax Act, 1961. It was further submitted that assessee had sold the properties during the year under consideration amounting to Rs. 1,02,45,000/- which was also incorrect as the assessee had sold one immovable property in two tranches i.e. the first floor and the second floor with a total consideration of Rs. 70,25,000/- and the assessee was owning half share in the said immovable property as the other co-owner was his brother Sh. Bhupinder Singh against whom the notice was received and the assessment was completed on the basis of share of each of the assessee. i.e. the assessee under reference and his brother Shri Bhupinder Singh. The amount of share of the assessee in the sale of the property works out to Rs. 35,12,500/- only which has also been accepted by the department while framing the assessment. He further submitted that as per the provisions of Section 149 the notice u/s. 148 can be issued in the case of the assessee company only within the 3 years from the end of relevant assessment year which means 3 years from 31.03.2018 i.e., upto 31.03.2021 whereas in the instant case the notice has been issued on 09.02.2024 which is after the date mentioned in the act so the notice issued is barred by time as per the law. In view of above, assessee Ld. AR has submitted that when the notice has been issued against both the co-owners i.e. the assessee under reference and his brother Sh.

Bhupinder Singh. It was further submitted that the Assessing Officer was well within his knowledge that the total share of the sale consideration of the property works out to RS. 35,12,000/- which was much below the limit of Rs. 50 lacs and the proceedings initiated against the assessee under section 148 were void ab initio. It was further explained that the notice has been issued considering that the income has escaped assessment for more than Rs. 50 lacs as per the provisions laid down under clause b of sub-section 1 of Section 149 of the Income Tax Act, 1961 which is against the facts of the case as the information on the basis of which the notice issued under section 148 is incorrect and as per the correct information the income which can be considered as escaped assessment during the year under consideration is Rs. 35,91,700/- only (i.e. sale consideration of immovable property Rs. 35,12,700/- + contractual receipts Rs. 72900/-). The assessment was ultimately completed at an income of Rs. 35,91,700/-. It was further submitted that at the time of framing the assessment, Assessing Officer has himself admitted that information available with the department was not correct. Because as per the provisions of Section 149(1)(a) the notice u/s. 148 of the Act can be issued in the case of the assessee only within the 3 years from the end of relevant assessment year which means 3 years from 31.3.2018 i.e. upto 31.3.2021 whereas in the instant case the notice has been issued on 09.02.2024 which is after the date mentioned, therefore, the notice issued to the assessee under section 148 and assessment framed under section 147 r.w.s. 144 and 144B of the Act is barred by time which needs to be quashed.

5.1 On the other hand, the ld. Sr. DR for the revenue supported the orders of lower authorities. The ld. Sr. DR for the revenue submits that the assessee was given ample opportunity to file various details during the assessment, the assessee chose not to respond such notices as has been recorded by Assessing Officer in para 2 of assessment order.

6. We have heard the rival contention and perused the records. We find that . notice under Section 148 of the Act was issued on 09.02.2024. In the notice, the Assessing officer recorded that income chargeable to tax has escaped assessment and that the order under sub-section (d) of Section 148A of the Act has been passed. We find force in the contention of the Ld.AR that in response to the said notice, the assessee submitted that in this case the income escaped assessment is below Rs. 50.00 lacs, therefore, the notice dated 09.02.2024 was issued for A.Y. 2017-18 whereas the last date for issuing the notice under section 148A(b) was upto 31.03.2021 as the income escaped assessment for the said year was much below Rs. 50,00,000/-. It was further submitted that department is not correct as the assessee had not purchased any property during the year under consideration which is alleged to have been purchased for Rs.32,20,000/-. Further, in the said reply, an objection was raised that the income which can be considered as escaped assessment is less than Rs. 50 lacs , which was supported by the relevant documents and affidavit, which is covered by the Provision of Clause of Sub Section 1 of Section 149 of Income Tax Act, 1961 which demonstrates that the notice was barred by limitation. It is further noted that assessee had sold the properties during the year under consideration amounting to Rs. 1,02,45,000/- which was also incorrect as the assessee had sold one immovable property in two tranches i.e. the first floor and the second floor with a total consideration of Rs. 70,25,000/- and the assessee was owning half share in the said immovable property as the other co-owner was his brother Sh. Bhupinder Singh against whom the notice was received and the assessment was completed on the basis of share of each of the assessee. i.e. the assessee under reference and his brother Shri Bhupinder Singh. The amount of share of the assessee in the sale of the property works out to Rs.35,12,500/- only which has also been accepted by the department while framing the assessment. As per the provisions of Section 149 the notice u/s. 148 can be issued in the case of the assessee company only within the 3 years from

the end of relevant assessment year which means 3 years from 31.03.2018 i.e., upto 31.03.2021 whereas in the instant case the notice has been issued on 09.02.2024 which is after the date mentioned in the act so the notice issued is barred by time as per the law. In view of above, Ld. AR has submitted that the notice has been issued against both the co-owners i.e. the assessee under reference and his brother Sh. Bhupinder Singh. It was further submitted that the Assessing Officer was well within his knowledge that the total share of the sale consideration of the property works out to Rs.35,12,000/- which was much below the limit of Rs. 50 lacs and the proceedings initiated against the assessee under section 148 were void ab initio. The notice has been issued considering that the income has escaped assessment for more than Rs. 50 lacs as per the provisions laid down under clause b of sub-section 1 of Section 149 of the Income Tax Act, 1961 which is against the facts of the case as the information on the basis of which the notice issued under section 148 is incorrect and as per the correct information the income which can be considered as escaped assessment during the year under consideration is Rs. 35,91,700/- only (i.e. sale consideration of immovable property Rs. 35,12,50/- + contractual receipts Rs. 72900/-). The assessment was ultimately completed at an income of Rs. 35,91,700/-, which also proves that the escaped income is below Rs. 50 lacs. As per provisions of Section 149(1)(a) the notice u/s. 148 of the Act can be issued in the case of the assessee only within the 3 years from the end of Revenue the relevant assessment year which means 3 years from 31.3.2018 i.e. upto 31.3.2021 whereas in the instant case the notice has been issued on 09.02.2024 which is after the date mentioned, therefore, the notice issued to the assessee under section 148 and assessment framed under section 147 r.w.s. 144 and 144B of the Act is barred by time which in my considered view deserve to be quashed.

7. I draw support from the decision of the Hon'ble Rajasthan High Court in Abdul Majeed Vs ITO (supra) wherein, it was held that where the Assessing

Officer issued reopening notice by passing order under Section 148A(d) of the Act after expiry of three years from the end of relevant assessment year on the ground that the assessee made undisclosed cash deposit amounting to Rs. 52.00 lacs in his bank account, however, no material was available to show that the cash deposit was more than Rs. 19.39 lacs were made, the Assessing Officer was not justified to presume that the assessee might have more bank account merely on the basis of such cash deposit of Rs. 19.39 lacs as escaped assessment. Thus, in view of aforesaid factual and legal discussion, we find that the notice under Section 148 of the Act was issued beyond the prescribed period of limitation, therefore, assessment proceedings under Section 147 is held invalid and subsequent action initiated by Assessing Officer is void ab initio.

8. Considering the aforesaid factual matrix and binding precedent, aforesaid, I allow the appeal of assessee on legal issue itself, which has only been argued by both the sides.

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

Order pronounced 08.10.2025.

Sd/-

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

**Date:08-10-2025**

***SRBhatnagar***

**Copy forwarded to: -**

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

Assistant Registrar, ITAT,  
Delhi Benches