

**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH "DB" SURAT**

**BEFORE SHRI SANDEEP GOSAIN (JUDICIAL MEMBER)
AND
SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)**

**ITA No. 318/SRT/2025
Assessment Year: 2015-2016**

Tirupati Shyam Enterprise
F.P. No. 139 Orleaans, Near
Sosyo Circle Udhna Magadalla
Road, Surat-395007.

Vs.

NFAC, Delhi Current
Jurisdiction: Dy. CIT Circle-
1(1)(1),
Aayakar Bhavan, Near Majura
Gate, Opp. New Civil Hospital,
Surat-395001.

PAN NO. AAGFT 3570 Q
Appellant

Respondent

Assessee by : Mr. Rasesh Shah, CA
Revenue by : Mr. J.K. Chandnani, Sr. DR

Date of Hearing : 09/10/2025
Date of pronouncement : 30/10/2025

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 14.10.2024 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)’] for assessment year 2015-16, raising following grounds:

1. On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in passing ex-parte order without giving reasonable and sufficient opportunity of being heard.



2. On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in dismissing the appeal without passing speaking order.

3. On the facts and circumstances as well as law on the subject, the learned CIT(A) has erred in confirming the action of assessing officer in reopening assessment u/s. 147 r.w.s 144B by issuing notice u/s. 148 of the I.T. Act, 1961.

4. On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming the action of Assessing Officer in making addition of Rs. 52,96,500/- on account of unexplained credits u/s. 68 r.w.s. 115BBE of the IT Act, 1961.

5. It is therefore prayed that above assessment framed u/s. 147 r.w.s 144B may kindly be quashed and/or the additions made by the assessing officer may please be deleted or the case may be set aside to the file of the CIT(A) with appropriate directions

2. At the very threshold of hearing, the learned Counsel for the assessee drew our attention to the fact that the Registry has pointed out a delay of seventy-one days in the filing of the present appeal. The learned Counsel, adverting to the affidavit placed on record, submitted that the impugned appellate order passed by the learned Commissioner of Income Tax (Appeals) [NFAC] was never received on the assessee's primary e-mail address, namely *metu52000@gmail.com*, which stood duly declared in Form No. 35 at the time of filing the appeal before the first appellate authority. It was further submitted that the assessee became aware of the passing of the said order only when his counsel, upon a routine verification of the appeal status on the Income Tax Department's ITD portal, noticed that the appeal had been decided. Thereupon,



immediate steps were taken to file the present appeal without any avoidable delay.

3. We have heard rival submission of the parties on the issue of the condonation of the delay in filing the appeal. The relevant part of the affidavit of the assessee is reproduced as under:

2) That is to state that my primary e-mail ID on the Income Tax portal is metu52000@gmail.com which was also duly mentioned while filing Form No. 35. Further, I did not receive any email from Income Tax Department in regard to the CIT(A) order u/s. 250 being passed.

3) That I came to know about the order only when my Counsel checked the status of the appeal on ITD Portal, randomly. I, therefore consulted senior CA Shri Rasesh Shah after passing of the due date for filing the appeal. Hence the appeal was filed belatedly due to lack of knowledge of the fact of dismissal of appeal by the Ld. CIT(A)(NFAC) as the order was never served on e-mail address metu52000@gmail.com. It was served on another e-mail address of insclient- jma@yahoo.in.

4) From the above facts, it is clear that there is no delay in filing the appeal as I was required to receive the appellate order on the mentioned e-mail address in terms of mandate of Form- 35. In case, the delay is construed, it should be condoned as the delay in filing the appeal was not intentional and I was prevented by sufficient and reasonable cause for not filing the appeal in time.

5) That therefore, in the facts and circumstances of the case, I pray to this Honorable Income Tax Appellate Tribunal:

a. To condone the delay of 71 days in filing the appeal in ITA No. 318/SRT/2025 and to extend the time for filing the same inclusive and upto the date of filing the appeal;

b. Also, that the case is a meritorious one and requires consideration to grant such other and further relief as deemed fit by Honourable Income Tax Appellate Tribunal



3.1 The power of this Tribunal to condone delay is well-recognised in law and may be exercised where the assessee demonstrates the existence of a *sufficient cause* preventing timely filing of the appeal. The expression “sufficient cause” must receive a liberal interpretation to advance substantial justice rather than defeat it on mere technicalities. The Hon’ble Supreme Court, in its celebrated pronouncement in *Collector of Land Acquisition v. Mst. Katiji & Others* [(1987) 167 ITR 471 (SC)], observed that when substantial justice and technical considerations are pitted against each other, the cause of substantial justice must be preferred, for the other cause cannot claim ascendancy.

3.2 In the present case, we find the explanation of the assessee to be reasonable, bona fide, and supported by the facts on record. The delay arose not out of negligence or inaction, but from circumstances beyond the assessee’s control — namely, the non-receipt of the order on the registered e-mail address statutorily declared in Form No. 35. Once knowledge of the order was gained, prompt action was taken to institute the appeal. We are, therefore, satisfied that sufficient cause has been shown for the delay.

3.3 Accordingly, invoking our discretion under the law and guided by the principles enunciated by the Hon’ble Supreme Court, we deem it just and proper to condone the delay of seventy-one days in



filing the present appeal. The appeal is, therefore, admitted for adjudication on merits.

4. On perusal of the records, we find that the assessee did not make any compliance either before the Assessing Officer or before the Ld. CIT(A) and therefore, both the authorities have passed the order ex-parte qua the assessee.

4.2 Before us, the Ld. counsel for the assessee has filed an additional ground challenging the validity of the reassessment proceedings, which being purely legal in nature and going to root of the matter, hence same is admitted for adjudication.

5. The learned Counsel for the assessee, at the very outset, invited our attention to the authoritative pronouncement of the Hon'ble Supreme Court in *Rajeev Bansal & Others v. Union of India* [[2024] 167 taxmann.com 70 (SC)] and contended that, for the Assessment Year 2015-16, the limitation for issuance of notice under the erstwhile provisions of Section 148 of the Income-tax Act, 1961, had not expired as on 31st March, 2021. It was submitted that sufficient time was still available to the Department to initiate reassessment proceedings under the unamended regime and, therefore, the relaxation provisions contained in the *Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020* ("TOLA") were not attracted to the said assessment year.



5.1 The learned Counsel further pointed out that the impugned notice under Section 148 of the Act was issued on 26th July, 2022, under the amended provisions of the Act. However, in terms of the new law, the outer limit for initiation of reassessment proceedings extended only up to 31st March, 2022, i.e., within six years from the end of the relevant assessment year. Consequently, the notice dated 26th July, 2022 stood issued clearly beyond the prescribed period of limitation and was thus void ab initio. Reliance was further placed on the judgment of the Hon'ble Gujarat High Court in *Mayurkumar Babubhai Patel v. Income-tax Officer* [(2024) 176 taxmann.com 25 (Guj.)], wherein a similar view was taken.

5.2 Before us, the Ld. counsel for the assessee also filed a copy of the notices issued u/s 148A(d) and 148 of the Act which are placed on record.

5.3 We have bestowed our thoughtful consideration upon the rival submissions and have carefully examined the material placed on record. The controversy in question is no longer *res integra*. The Hon'ble Supreme Court in *Rajeev Bansal & Others* (supra) has laid down, in clear and categorical terms, that the benefit of extended limitation under TOLA cannot be availed in respect of assessment years where, as on 31st March, 2021, the time for issuing notice under the erstwhile Section 148 had not expired. It was observed that, upon the coming into force of the amended scheme with effect



from 1st April, 2021, the power to reopen stood governed strictly by the newly substituted provisions of Sections 147 to 151 of the Act.

5.4 In the present case, applying the ratio of the aforesaid decision, it is manifest that for Assessment Year 2015–16, the limitation under the old law subsisted up to 31st March, 2021. Hence, the relaxation under TOLA was inapplicable. The case of the assessee, therefore, fell within the ambit of the amended law, wherein the maximum permissible period for issuance of notice was six years from the end of the relevant assessment year, i.e., up to 31st March, 2022. The notice under Section 148, having been issued on 26th July, 2022, is patently barred by limitation and without authority of law.

5.5 We also derive fortification for this view from the judgment of the Hon'ble Gujarat High Court in *Jaysukh Gobalbai Savalia v. Income-tax Officer* (ITA No. 269/SRT/2025, A.Y. 2015–16), wherein, in an identical factual matrix, it was held that once the limitation under the unamended provision had not expired as on 31st March, 2021, TOLA could not be pressed into service to extend such limitation, and any notice issued beyond 31st March, 2022 would be non est in law.

5.6 Respectfully following the binding precedent of the Hon'ble Supreme Court in *Rajeev Bansal & Others* (supra) and the decisions of the jurisdictional High Court cited hereinabove, we hold that the



impugned reassessment proceedings initiated by the notice dated 26th July, 2022 are barred by limitation and, therefore, unsustainable in law. Accordingly, the notice issued under Section 148 and all consequential proceedings are hereby quashed.

6. In view of our finding on the additional ground, which goes to the root of the jurisdiction of the Assessing Officer, the other grounds raised on merits stand rendered purely academic and call for no adjudication.

7. In the result, the appeal of the assessee is allowed.

Order pronounced by way display of result on notice board on 30/10/2025 under Rule 34(4) of ITAT Rules, 1963.

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Dated: 30/10/2025
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Surat