

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE MS SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER AND  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER  
ITA No.793/SRT/2024 (AY 2015-16)**

**(Hybrid Hearing)**

ITO, Ward – 3(3)(1), Surat	<b>Vs.</b>	Shardaben Gordhanbhai Asodaria, 8, Raghuvir Bungalow City Light Road, Parle Point, Surat - 395007
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ABVPA6713E</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

**ITA No.1295/SRT/2024 (AY 2015-16)**

ITO, Ward – 2(3)(1), Surat	<b>Vs.</b>	Hitesh B. Ponkia, 21, Milan Bungalows, Opposite Valentine Cinema, Dumas Road, Surat - 395001
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AADHH8389A</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Appellant by</b>	Shri Ravinder Sindhu, CIT-DR
<b>Respondent by</b>	Shri Manish J. Shah, Sr. DR
<b>Date of Hearing</b>	28/08/2025
<b>Date of Pronouncement</b>	18/11/2025

**आदेश / ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

These two appeals by revenue emanate from the separate orders dated 06.06.2024 and 13.11.2024 passed by the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [in short, 'the CIT(A)'] for assessment year (AY) 2015-16. With consent of both the parties, these appeals were heard and clubbed together and a common order is passed for the sake of convenience and brevity. ITA No.793/SRT/2025 for AY 2015-16 is taken as 'lead' case.

2. The grounds of appeal raised by the revenue in ITA No.793/SRT/2025 are as follows:

*“(i) On the facts and circumstances of the case and in law the Ld CIT has erred in deleting the addition made of Rs 4,63,05,545/- by the AO on account of cash credit u/s 69A of the Act in the disguise of exempted long term capital gains on account of sale of the share of JRI Industries and Infrastructure Limited, a penny stock and without appreciating the findings of the Assessing Officer that the price movement of the company were not supported by financial fundamentals of the company?”*

*“(ii) On the facts and circumstances of the case and in law the Ld CIT has erred in ignoring the facts brought on record establishing manipulation of share prices of Ji Industries and Infrastructure Limited as the upward movement of share price was not at all justified by the economic fundamental of company during the period of transactions by the assessee?”*

*“(iii) On the facts and circumstances of the case and in law, the Ld CIT(A) has erred in deleting the addition made by the Assessing Officer of Rs.4,63,05,545/- ignoring the fact that the stock prices of the company are manipulated to provide the bogus LTCG.*

*“(iv) On the facts and circumstances of the case and in law, the Ld CIT(A) has erred in allowing the claim ignoring the judicial pronouncement by the Hon’ble Supreme Court in the case of McDowell Vs CTO wherein it was held that “Colourable devices cannot be part of tax planning and it is wrong to encourage or entertain the belief that it is honourable to avoid the payment of tax by resorting to dubious method it is the obligation of every citizen to pay the taxes honestly without resorting to subterfuges”.*

*“(v) On the basis of the facts and circumstances of the case and in law the Ld CIT(A) ought to have upheld the order of the Assessing Officer.*

*“(vi) It is therefore prayed that the order of Ld. CIT(A) may kindly be set aside that of the Assessing Officer be restored.*

*“(vii) The appellant craves leave to add, alter, amend and/or withdraw any ground of appeal either before or during the course of hearing of the appeal.”*

3. The grounds of appeal raised by the revenue in ITA No.1295/SRT/2025 are as under:

*“(i) On the facts and circumstances of the case and in law the Ld CIT has erred in deleting the addition made of Rs.87,86,293/- by the AO on account of undisclosed income in the disguise of exempted long term capital gains on account of sale of the share of JRI Industries and Infrastructure Limited, a penny stock and without*

*appreciating the findings of the Assessing Officer that the price movement of the company were not supported by financial fundamentals of the company.*

*(ii) On the facts and circumstances of the case and in law the Ld CIT has erred in ignoring the facts brought on record establishing manipulation of share prices of JRI Industries and Infrastructure Limited as the upward movement of share price was not at all justified by the economic fundamental of company during the period of transactions by the assessee.*

*(iii) On the facts and circumstances of the case and in law, the Id. CIT(A) has erred in deleting the addition made by the Assessing Officer of Rs.87,86,293/- ignoring the fact that the stock prices of the companies are manipulated to provide the bogus LTCG.*

*(iv) On the facts and circumstances of the case and law, the Ld. CIT(A) has erred in allowing the claim ignoring the judicial pronouncement by the Hon'ble Supreme Court in the case of McDowell Vs CTO wherein it was held that "Colourable devises cannot be part of tax planning and it is wrong to encourage or entertain the belief that it is honourable to avoid the payment of tax by resorting to dubious method. It is the obligation of every citizen to pay the taxes honestly without resorting to subterfuges".*

*(v) On the basis of the facts and circumstances of the case and in law, the Id. CIT(A) ought to have upheld the order of the Assessing Officer.*

*(vi) It is therefore prayed that the order of Id. CIT(A) may kindly be set aside that of the Assessing Officer be restored.*

*(vii) The appellant craves leave to add, alter, amend and/or withdraw any ground of appeal either before or during the course of hearing of the appeal."*

4. The appellant has filed an application under Rule 27 of ITAT, Rules to allow the applicant to support the order of CIT(A). She submitted that the ground is purely legal in nature affecting jurisdiction of Assessing Officer (in short, 'AO') and does not require any further facts other than the ones, which are on record, for its adjudication. The ground is as under:

*"2. Notice issued u/s 148 as well as consequential reassessment order passed u/s 147, for AY 2015-16, are bad in law on account of being time barred, in view of the judgement of the Hon'ble Supreme Court in case of UOI vs. Rajeev Bansal, (2024) 469 ITR 46 (SC) and the Hon'ble jurisdictional Gujarat High Court in case of Mayurkumar Babubhai Patel vs. ACIT, SCA No.18099 of 2022."*

4.1 The learned Commissioner of Income-tax – Departmental Representative (Id. CIT-DR) submitted that the Bench may decide the matter as it thinks fit.

4.2 We have heard both sides. Rule 27 empowers the respondent to defend the order appeal against on any of the grounds decided against him, though he may not have appealed or filed a cross-objection. It is seen from the ground that it is purely legal in nature and does not require additional fact to decide it. It is an enabling provision which the respondent can avail himself of, in order to retain the benefit, which has accrued to him from the order appealed against. Hence, the ground is admitted and shall be adjudicated at the appropriate place.

5. The facts of the case in brief are that the assessee filed her return of income for AY 2015-16 on 30.03.2016, declaring total income at Rs.3,87,290/-. The AO received an information that the assessee was beneficiary of exempt long-term capital gain (LTCG) on trading of penny scrip, namely, JRI Industries and Infrastructure Limited (in short, 'JIIL'). The AO has mentioned that notice u/s 148 was issued to the assessee on 17.05.2021. Subsequently, following the directions of Hon'ble Supreme Court in Civil Appeal No.3005/2022, dated 04.05.2022, the AO informed the assessee that the above notice u/s 148 shall be treated as show cause notice u/s 148A(b) of the Act. Thereafter, he issued notice u/s 148 under the new provisions of the Act on 31.07.2022. In response, assessee filed return on 02.08.2022, declaring the same income of Rs.3,87,290/-. The AO provided various opportunities as detailed in para 2 of assessment order and after hearing the assessee, he completed the assessment u/s 147 r.w.s. 144B of the Act by making addition of Rs.4,63,05,545/-.

6. Aggrieved by the order of AO, the assessee filed appeal before the CIT(A). The CIT(A) deleted the addition by observing that the entire addition is based on the investigation report and market/trading analysis of scrip of JIL. There is nothing substantive against the appellant and no inquiry whatsoever was conducted by the AO during the assessment proceedings with regard to bogus claim of LTCG. The assessee had submitted all the evidential evidences to prove the genuineness of the transactions pertaining to the purchase and sales of shares, which were made through online digital platform through recognized stock exchange and recognized broker. The assessee also paid STT and receipt of such sale and purchases were through banking channel. Accordingly, he held that the LTCG was genuine and hence, he directed AO to delete the impugned addition. Aggrieved by the order of CIT(A), the revenue filed appeal before the Tribunal.

7. We shall first decide the jurisdictional issue raised by the respondent assessee. The learned Authorized Representative (Id. AR) of the assessee, at the outset, submitted that the notice u/s 148 of the Act was issued beyond limitation period and, therefore, the AO had no valid jurisdiction to reopen the assessment. The entire assessment proceedings are void and deserves to be quashed. He submitted that the date of original notice u/s 148 of the Act was 17.05.2021. Since the notice was issued under the old provisions of section 148 of the Act after 01.04.2021, the said notice was deemed to be notice u/s 148A(b) of the amended provisions in view of the decision of Hon'ble Supreme Court in case of UOI vs. Ashish Agarwal, 444 ITR 1 (SC). He submitted that the Hon'ble Supreme

Court in case of UOI vs. Rajeev Bansal, 469 ITR 46 (SC) has recorded the concession of the learned counsel for revenue in respect of notices u/s 148 for AY 2015-16 in para 19(f) of its judgement that for AY 2015-16 that all notices issued u/s 148 of the Act on or after 01.04.2021 will have to be dropped. Considering the above concession, the Hon'ble Supreme Court in the subsequent decision in case of Deepak Steel and Power Limited vs. CBDT, (2025) 174 taxmann.com 144 (SC) held that all notices issued for AY 2015-16 on or after 01.04.2021 are to be quashed and set aside and nothing further is to be adjudicated in case of these notices. Following the above decisions of the Hon'ble Supreme Court, the Hon'ble jurisdictional High Court of Gujarat in case of Mayurkumar Babubhai Patel vs. ACIT, R/SCA No.3154 of 2022, dated 17.06.2025 has quashed notices u/s 148 for AY 2015-16 issued on or after 01.04.2021. Subsequently, the Hon'ble High Court has again quashed notices issued u/s 148 for AY 2015-16 on or after 01.04.2021 in a common order for 115 petitions in Narendra Maganlal Purohit vs. DCIT, R/SCA Nos.17443 of 2022 and Ors., dated 14.07.2025. In view of the settled position by the above judicial precedents, the Id. AR requested that the notice issued u/s 148 dated 31.07.2022 for AY 2015-16 may be quashed.

8. On the other hand, Id. CIT-DR for the revenue supported the order of AO and submitted that the Bench may decide the matter as it thinks fit.

9. We have heard both parties and perused the materials available on record. We have also deliberated on the decisions relied upon by the Id. AR. The undisputed fact in the present appeal is that the original notice u/s 148 of the Act was issued on 17.05.2021. The same was deemed to be notice u/s 148A(b) of the

Act as per the decision of the Hon'ble Supreme Court in case of Ashish Agarwal (supra). In the subsequent decision before the Hon'ble Supreme Court in case of Rajeev Bansal (supra), the revenue had given concession with regard to the notices issued u/s 148 of the Act for AY 2015-16, i.e., on or after 01.04.2021. The relevant para of the decision is reproduced below for ready reference and clarity:

*"19(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 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."*

9.1 In the subsequent decision in Deepak Steel and Power Ltd. (supra), the Hon'ble Supreme Court reiterated the above position and held as under:

*"5. As the revenue made a concession in the aforesaid decision that is for the assessment year 2015-16, all notices issued on or after 1<sup>st</sup> 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 25.06.2021."*

9.2 Following the above decisions, the Hon'ble jurisdictional High Court in case of Mayurkumar Babubhai Patel (supra) and Narendra Maganlal Purohit (supra) has quashed the notices u/s 148 of the Act for AY 2015-16 issued on or after 01.04.2021. In the instant case, the AO had issued the notice u/s 148 of the Act on 31.07.2022, i.e., which was after 01.04.2021. Hence, the notice itself is time barred and invalid. Once the notice itself is time barred, the entire reassessment proceedings are rendered invalid and without jurisdiction. Consequently, the assessment framed is also liable to be quashed. Accordingly, we dismiss the appeal of the revenue on jurisdictional ground and quashed the re-assessment

order. As the appeal of revenue has been dismissed on legal issue, there is no need to adjudicate the other grounds raised on merit.

10. In the result, the appeal of the revenue is dismissed.

**ITA No.1295/SRT/2025 (AY 2015-16):**

11. The facts of the case are similar to the facts in ITA No.793/SRT/2025 (supra). In this case, the notice u/s 148 of the Act was issued by the AO for AY 2015-16 on 29.07.2022, i.e., after 01.04.2021. Hence, following the reasons given in ITA No.793/SRT/2025 (supra), the appeal filed by revenue is also dismissed.

12. In the result, the appeal of the revenue is dismissed.

13. In the combined result, the appeals of the revenue are dismissed.

Orders are pronounced under provision of Rule 34 of ITAT Rules, 1963 on 18/11/2025.

**Sd/-**  
**(SUCHITRA R. KAMBLE)**  
**JUDICIAL MEMBER**

Surat

दिनांक/ Date: 18/11/2025

SAMANTA

**Copy of the Order forwarded to:**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

**Sd/-**  
**(BIJAYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

By Order

**// TRUE COPY //**

Assistant Registrar/Sr. PS/PS  
ITAT, Surat