

IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT
(HYBRID HEARING)

Before: Shri T.R. Senthil Kumar, Judicial Member And
Shri Bijayananda Pruseeth, Accountant Member

ITA No: 694/SRT/2025
Assessment Year: 2025-26

Navinbhai Ratilal Idria 1/1/1 Kathodra, Kamrej, Surat-394326 PAN: ACMPI3509E (Appellant)	Vs	Income Tax Officer Ward-2(3)(4), Surat (Respondent)
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Assessee Represented: Shri P.M. Jagasheth, CA
Revenue Represented: Shri Ajay Uke, Sr. D.R.

Date of hearing : 11-11-2025
Date of pronouncement : 21-11-2025

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the exparte appellate order dated 30.04.2024 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the reassessment order passed under section 144 r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2014-15.

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2. The registry has noted that there is a delay of 362 days in filing the above appeal. The assessee explained that the assessee is a 64 years old Farmer and Senior Citizen residing in a small village Kathor, Kamrej. Though in the appeal filed before CIT(A), specific request not to send communications by email, but Ld. CIT(A) communicated by email which was not noticed by the A.R. It is thereafter when the assessee visited the office of the Authorized Representative and checked the e-filing portal, came to know about the exparte appellate order passed by Ld. CIT(A). Immediate thereafter, assessee filed appeal on 26-06-2025 with a delay of 362 days which is neither willful nor wanton and thereby requested to condone the delay. Having perused the materials available on record, the delay of 362 days in filing the appeal is hereby condoned.

3. Brief facts of the case is that the assessee is an individual had jointly sold immovable property along with 6 other co-owners at Moje Gam, Kathor, Surat on 24-05-2013 for a consideration of Rs.2,53,25,000/-. The Stamp Duty Valuation Authority determined the market value of the property as Rs.2,96,93,877/- thereby a difference of Rs.43,68,877/-. As the assessee has not filed regular Return of Income, the assessment was reopened by issuing a notice u/s 148 on 12-06-2021. Pursuant to the Supreme Court Judgment in the case of Union of India Vs. Ashish Agarwal [2022] SCC online 543) after giving opportunity to the assessee u/s 148A(b) and order u/s 148A(d) was passed and fresh notice u/s 148 of the Act was issued on 30-06-2022. Thereafter a show cause notice was issued. Since the assessee failed to response to the notices, A.O. passed



exparte assessment order making entire addition of Rs.2,96,93,877/- as the capital gain in the hands of the assessee and demanded tax thereon.

4. Aggrieved against the assessment order, assessee filed an appeal before Ld. CIT(A) who has given two opportunities on 08-03-2024 and 15-03-2024. As there was no response, the appeal was dismissed for non-prosecution.

4. Aggrieved against the ex-parte appellate order, the assessee is in appeal before us raising the following Grounds of Appeal and Additional Grounds of Appeal:

1. *On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has erred in confirming the action of the Assessing Officer in re-opening the assessment u/s.147 of the Act and issuing notice u/s.148 of the Act.*

2. *On the facts and in the circumstances of the case as well as the law on the subject, the learned Assessing Officer has erred in passing ex parte assessment order U/s.144 of the Income Tax Act, 1961.*

3. *On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has erred in confirming the action of the Assessing Officer in making addition of Rs.2,96,93,877/ on account of alleged stamp duty value treated as income under the head of long term capital gain without calculating the index cost of acquisition of the impugned land.*

4. *On the facts and in the circumstances of the case as well as the law on the subject, the learned Assessing Officer has erred in not calculating cost of acquisition of the impugned land and considered stamp duty value as income under the head of long term capital gain.*

5. *On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has erred in confirming the action of the Assessing Officer in initiating penalty proceedings u/s.271(1)(c) of the Income Tax Act, 1961.*

6. *On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has not*

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offered adequate opportunities to hear the case and passed ex-parte order and hence the case may please be set aside and restored back to the CIT(A) or AO.

7. It is therefore prayed that the above addition may please be deleted as learned members of the tribunal may deem it proper.

8. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of the hearing of the appeal.

Additional Grounds:

- 1. On the facts and in the circumstances of the case as well as the law on the subject, the notice issued u/s. 148 of the Income Tax Act, 1961 by the Ld. A.O. is an invalid and the reassessment order passed thereafter is grossly incorrect, invalid and bad-in-law.*
- 2. On the facts and circumstances of the case and in law, the Ld. A.O. has erred by issuing the notice u/s. 148 of the I.T. Act, 1961 on 30.06.2022 for A.Y. 2013-14 since the same is barred by limitation as per the judicial decision of Hon'ble Supreme Court in case of Union of India Vs. Rajeev Bansal [2024] 167 taxmann.com 70(SC).*
- 3. I am filing herewith the Additional Ground of Appeal which may kindly be taken on record, and oblige.*

5. In support of the Additional Grounds, the Ld. Counsel Mr. Jagasheth appearing for the assessee submitted before us "surviving time to issue the reopening notice u/s 148" as per Hon'ble Supreme Court judgment in the case of Union of India Vs. Rajeev Bansal [2024] 167 taxmann.com 70 (SC) and DCIT Vs. Reliance Industries Ltd. in SLP (Civil) Diary No. 56889/2024 dated 24-02-2025 and Jurisdictional High Court judgments in the case of Dhanraj Govinram Kella Vs. ITO [2025] 177 taxmann.com 194, M/s. Prolife Industries Ltd. Vs. ITO [2025] 178 taxmann.com 272, M/s. RJD Builders Ltd. Vs. ACIT [2025] 179 taxmann.com 31, Dilipbhai Jayantbhai Patel Vs. Assessment Unit, Income Tax [2025] 179 taxmann.com 40 and Dadabhai Abhalbhai Darbar Vs. ITO

[2025] 179 taxmann.com 425. Thus Ld. Counsel pleaded that the notice is being issued beyond the period of limitation as per the surviving time and therefore the entire reassessment proceedings is liable to be quashed.

6. Per contra Ld. Sr. D.R. Shri Ajay Uke appearing for the Revenue supported the order passed by the lower authorities and requested to confirm the addition.

7. We have given our thoughtful consideration and perused the material available on record. The Hon'ble Supreme Court in the case Rajeev Bansal (cited supra) wherein it is held as follows:

*"Section 149, read with sections 148 and 148A, of the Income-tax Act, 1961 and section 3 of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020-Income escaping assessment Time limit for issuance of notice (TOLA, 2020) Assessment year 2013-14 to 2017-18 Whether Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, (TOLA) overrides Income-tax Act to extent of relaxing time limit for issuance of a reassessment notice which fell for completion from 20-3-2020 to 31-3-2021, till 30-6-2021-Held, yes **Whether entire time allowed to assessee to respond to show cause notice has to be excluded for computing period of limitation and thus, period from date of issuance of deemed notices till supply of relevant information and material by Assessing Officers to assesseees in terms of directions issued by this Court in Union of India v. Ashish Agarwal [2022] 138 taxmann.com.64/256 Taxman 183/444 ITR 1 has to be excluded from computation of period of limitation Held, yes [Paras 72 and 113] [In favour of revenue]***

*Section 151, read with section 148A, of the Income-tax Act, 1961 and section 3 of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020-Income escaping assessment (Sanction for issue of notice) Assessment years 2013-14 to 2017-18-Whether section 3(1) of TOLA relaxes time limit for compliance with actions that fall for completion from 20 March 2020 to 31 March 2021 and TOLA will accordingly extend time limit for grant of sanction by authority specified under section 151 Held, yes **Whether in case of section 151 of new regime if time limit of three years from end of an assessment year falls between 20 March 2020***



and 31 March 2021, then specified authority under section 151(i) has an extended time till 30 June 2021 to grant approval Held, yes Whether in case of section 151 of old regime, if time limit of four years from end of an assessment year falls between 20 March 2020 and 31 March 2021, then specified authority under section 151(2) has time till 31 March 2021 to grant approval - Held, yes [Partly in favour of revenue].”

7.1. This judgment was followed in the case of Reliance Industries Ltd. in SLP (Civil) Diary No. 56889/2024 wherein it is held as follows:

“4. Mr. Shakhder has placed before us a calculation chart which reads as under:-

“Calculation of Limitation period as per Hon'ble SC judgement in the case of Rajeev Bansal (2024) 469 ITR 46 (SC) (Refer to Para 112 of the order)

Particulars	As per example given in SC order	Facts of RIL	Page No of SLP
Notice u/s. 148 under old regime	81.05.2021	29. 86. 2021	42-43
No. of days available with AO to issue notice under new regime after receiving objection from Assessee (from date of 148 notice till	61	2	See Note
30.06.2021)			
Notice u/s. 148A(b)		01.06.2022	
Submission of objection by Assessee in response to notice u/s. 148A(b)	18.96.2022	14.06.2022	
Time available to AO to issue notice u/s. 148 under new regime	18.08.2022	16.06.2022	
Actual date of issue of notice u/s. 148 under new regime		31.07.2022	
Whether time barred?		Yes	

Notice u/s. 148 was required to be issued within 2 days or within 7 days if fourth proviso to section 149 is to be applied."

5. The aforesaid shall be looked into by the assessing officer, in view of para 112 of the judgment rendered by this Court in the case of Rajiv Bansal (supra).

6. The petition stands disposed of accordingly.

7. Pending application(s), if any, stand disposed of."

8. The above Supreme Court judgment is being followed by Jurisdictional High Court in the case of Dhanraj Govinram Kella, M/s. Prolife Industries Ltd., M/s. RJD Builders, Dilipbhai Jayantbhai Patel and Dadabhai Abhalbhai Darbar (cited surpa). Thus we have no hesitation in looking into the surviving time available in the chart given by the assessee as follows:

NAVINBHAI RATILAL IDARIYA							
FOR AY 2014-15							
DATE OF NOTICE U/S 148 UNDER TOLA	NO OF DAYS OF SURVIVING TIME AVAILABLE TILL 30/06/2021	NOTICE U/S 148A(b) ISSUED	DAYS PROVIDED IN NOTICE U/S. 148A(b)	DUE DATE FILING REPLY	DATE OF FILING REPLY	DATE OF ORDER U/S 148A(d) OF THE ACT AND NOTICE U/S 148 ISSUED.	LAST DATE FOR ISSUANCE OF NOTICE U/S. 148 AS PER SURVIVING TIME
12-06-2021	18	18-05-2022	14	02-06-2022	-	30-06-2022	20-06-2022

9. We have heard rival parties and perused the materials available on record. It is no more resintegra of issuing notice u/s. 148 within the surviving time as per Supreme Court and Jurisdictional High Court judgments cited supra. It is undisputed fact that the original notice was issued on 12-06-2021. The last date for issuing notice as per proviso to Section 149 is 20-06-2022, whereas the notices

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issued on 30-06-2022 which is after the expiry of the limitation prescribed u/s. 149 of the Act. Thus, the reopening notice itself is time barred, consequently the entire reassessment proceedings is invalid in law and is without jurisdiction. Therefore, the entire reassessment is liable to be quashed. Accordingly, we allow the appeal of the assessee on jurisdiction ground and quash the reassessment order and not adjudicating the other grounds raised on merits by the assessee.

10. In the result, the appeal filed by the Assessee is hereby allowed.

Order pronounced under proviso to Rule 34 of ITAT Rules, 1963 on 21-11-2025

(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Ahmedabad : Dated 21 / 11 / 2025

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.


(T.R. SENTHIL KUMAR) &
JUDICIAL MEMBER

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
सूरत