

IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
(VIRTUAL HEARING AT KOLKATA)

SHRI MANOMOHAN DAS, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 302/GTY/2025
Assessment Year: 2015-2016

&

I.T.A. No. 303/GTY/2025
Assessment Year: 2016-2017

Asha Choudhury,
Khoyathong Road,
Imphal - 795001
[PAN: ABMPC7813Q]

.....**Appellant**

vs.

Income Tax Officer,
Ward 1, Imphal,
3rd Floor, Income Tax Office,
Old Lambulane, Central Jail Road,
Imphal - 795001

..... **Respondent**

Appearances by:

Assessee represented by : Babulal Jain, FCA
Department represented by : Sanjay Jha, JCIT

Date of concluding the hearing : 04.12.2025
Date of pronouncing the order : 04.12.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. This is a batch of two appeals pertaining to the same assessee for AYs 2015-16 and 2016-17. While ITA 302/Gty/2025 arise from order u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”) dated 20.08.2025, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi; ITA No. 303/Gty/2025 arise from order u/s 250 of the Act dated 25.08.2025. Both these cases are being dealt with through a single order.

1.1 Right at the outset, the Ld. AR pointed out for ITA No. 302/Gty/2025 for AY 2015-16 revised grounds of appeal having been filed as under:

“1. That Learned Income Tax Officer-Ward-I-Imphal has issued notice u/s.148 on 28/07/2022 for the Asst. Year:2015-16 which was time barred so assessment made on the basis of said notice was bad in law.

2. The Learned Income Tax Officer-Ward-I-Imphal wrongly started proceeding u/s. 148A(b) and wrongly passed order u/s.148A(d), wrongly issued notice u/s.148 ignore section 151A And E-assessment of Income escaping assessment scheme, 2022 notified on 29/03/2022.

3. That the Learned Income Tax Officer, Ward-I-Imphal was not justify in making addition u/s.69 of Rs.60,00,000/- to my income on account of unexplained investment which was wrongly confirmed by the Commissioner of Income Tax (Appeals).

4. The Learned Income Tax Officer and the Commissioner of Income Tax (Appeals) was not justify in rejecting explanation filed by assessee that she has not made any investment in Hotel Maharani at Basti.

5. The Learned Income Tax Officer was not justify on relying on statement of third party which was later on retreated and in this connection he sworn an affidavit and copy sended to me.

I pray you to allow me to modify above ground and add new ground before the date of hearing.”

2. The Ld. AR argued on the assumption of jurisdiction by the Ld. AO and mentioned that the first notice under old regime was issued on 30.06.2021 (these facts have also been placed before us through a detailed paper book). Thereafter, under the new regime, the notice u/s 148 of the Act was issued only on 28.07.2022. The Ld. AR stated that due to the case of Rajeev Bansal [167 taxmann.com 70 (SC)] which needed be read in conjunction with the case of Ashish Agarwal [138 taxmann.com 64 (SC)], the notice u/s 148 issued under the new regime was barred by limitation.

2.1 The Ld. DR stated that such ground was not raised before the Ld. CIT(A) or even the Ld. AO and hence the same should not be entertained.

3. Since, the issue of timely notice u/s 148 of the Act goes to the root of the matter hence this needs to be adjudicated before we proceed any further, if required to do so at all.

4. We have carefully perused the documents before us, including the paper book and the chronology of events contained therein. We find that the notice u/s 148 of the Act issued on 28.07.2022 was clearly time barred. For this purpose, we also rely on the Coordinate Bench case of Hilton Dealmark Pvt. Ltd. [ITA No. 1002/Kol/2025, order dated 21.11.2025]. The following findings are relevant:

2. Before us, the Ld. AR submitted that the notice u/s 148 of the Act issued under the new regime was dated 27.07.2022 and was clearly time barred since a valid notice could have been issued again only by 31.03.2022. The Ld. AR relied on a Coordinate Bench decision in the case of Solo Hotels India Pvt. Ltd., ITA No. 2540/Kol/2024, dated 22.07.2025. The Ld. AR pointed out the relevant findings therein as under:

“5. Upon hearing the submission of the respective parties, and on perusal of records following the facts have been emerged:

Date of Issuance of Notice	Notice u/s
20.06.2021	148 (Under Old Provision)
30.05.2022	148A(b)
29.07.2022	148A(d)
29.07.2022	148 (Under New provision)
28.05.2023	Order passed u/s 147 r.w.s. 144B

4. At the outset, it has been stated that ld. Counsel for the assessee stated that the entire re-assessment proceedings and notice u/s.148 dated 27/07/2023 is barred by limitation, in view of the judgment of the Hon'ble Supreme Court in the case of Union of India vs. Rajeev Bansal reported in (2024) 167 taxmann.com 17; and judgment of the Hon'ble Delhi High Court in the case of Ibibo Group Pvt. Ltd. vs. ACIT in WP(C) No.17639 / 2022 judgment and order dated 13/12/2024.

5. The brief facts qua the legal issue are that assessee is a partnership firm has filed its return of income for A.Y.2015-16 on 28/08/2015 declaring total income of Rs.12,99,47,790/-.

6. Before us following sequence of events have been given with regard to issuance of notice u/s.148 and various letters issued and filed before the issuance of final notice u/s.148 dated 27/02/2022.

Particulars	AY: 2015-16
Notice u/s 148 as per old regime (deemed to be show cause notice u/s 148A(b) of the Act.)	29/06/2021
Issue Letter/deemed notice u/s 148A(b) providing relevant material and information to the assessee.	26/05/2022
Issue Letter issued u/s 148A(b) providing additional information.	01/06/2022
Response filed by assessee to the above issue letter.	30/06/2022
Order u/s 148A(d) and notice u/s 148 (under new law)	27/07/2022

7. At the outset, it has been submitted that as per the Revenue's admission before the Hon'ble Supreme Court in the case of *Rajeev Bansal*, A.Y.2015-16 does not fall during the period prescribed under TOLA. The time limit for issuance of notice u/s.148 for A.Y.2015-16 expires on 31/03/2022. The Hon'ble Supreme Court clearly held that TOLA will apply to the Income Tax Act after 01/04/2021 if any action or proceeding specified under substituted provisions of the Income Tax Act falls for completion between 20/03/2020 and 31/03/2021. For the A.Y.2015-16, the time limit for issuance of notice u/s.148 was 31/03/2022 and therefore, it was qua this time limit, the Revenue had conceded before the Hon'ble Supreme Court that TOLA will not apply for the A.Y.2015-16. For the sake of ready reference para 19 of the said judgment of the Hon'ble Supreme Court reads 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: (1) 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 reassessment 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	Within 3 Years	Expiry of Limitation read TOLA for (2)	Within six Years	Expiry of Limitation read with TOLA for (4)
(1)	(2)	(3)	(4)	(5)
2013-14	31-03-2017	TOLA not applicable	31-03-2020	30-06-2021
2014-15	31-03-2018	TOLA not applicable	31-03-2021	30-06-2021
2015-16	31-03-2019	TOLA not applicable	31-03-2022	TOLA not applicable
2016-17	31-03-2020	30-6-2021	31-03-2023	TOLA not applicable
2017-18	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 showcause 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*).

8. This stand of the department and concession given by the Revenue before the Hon'ble Supreme Court has been dealt by the Hon'ble Delhi High Court in the case of *Ibibo Group Pvt Ltd.* (*supra*). The relevant observation of the Hon'ble High Court reads as under:-

"1. The instant writ petition assails the reassessment action initiated under Section 148 of the Income Tax Act, 1961 ["Act"] for Assessment Year ["AY"] 2015-2016. The petitioner has impugned the order referable to Section 148A(d) of the Act dated 23 July 2022 and the consequential notice under Section 148 of the Act which came to be issued on the same date.

2. We bear in mind the following concession which came to be recorded on behalf of the respondent before the Supreme Court in *Union of India and Others vs. Rajeev Bansal* [2024 SCC OnLine SC 2693] and relevant parts whereof are reproduced hereinbelow:-

"(e) The Finance Act, 2021 ((2021) 432 ITR (Stat) 52) substituted the old regime for reassessment with a new regime. The first proviso to section 149 does not expressly bar the application of Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. Section 3 of the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 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 Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, then all the notices issued between April 1, 2021 and June 30, 2021 pertaining to the 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	Within 3 Years	Expiry of Limitation read TOLA for (2)	Within six Years	Expiry of Limitation read with TOLA for (4)
(1)	(2)	(3)	(4)	(5)
2013-14	31-03-2017	TOLA not applicable	31-03-2020	30-06-2021
2014-15	31-03-2018	TOLA not applicable	31-03-2021	30-06-2021
2015-16	31-03-2019	TOLA not applicable	31-03-2022	TOLA not applicable
2016-17	31-03-2020	30-6-2021	31-03-2023	TOLA not applicable

2017-18	31-03-2021	30-06-2021	31-03-2024	TOLA not applicable
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(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."

3. In view of the aforesaid, it is evident that the impugned reassessment action for AY 2015-16 would not sustain. 4.The writ petition is accordingly allowed. The impugned order under Section 148A(d) of the Act dated 23 July 2022 and consequential notice referable to Section 148 of even date are hereby quashed and set aside."

9. Thus, the notice u/s.148 issued on 27/07/2022 is clearly barred by limitation. The reason being the test for checking the time limit and the validity of notices issued u/s.148 under new regime applicable from A.Y. 2021-22 and prior regime is, whether period of six years had expired at the time of issue of such notice or not. In the case of assessee, the period of six years had expired on 31/03/2022 and consequently, the notice dated 27/07/2022 is clearly barred by limitation and on this ground, the assessment proceedings u/s.147 is hereby quashed. Accordingly, the cross objection filed by the assessee is allowed and all the grounds raised by the Revenue are dismissed as infructuous.

10. In the result, appeal filed by the Revenue is dismissed as infructuous and Cross Objection of the assessee is allowed.

6. In the present case, it admits of no doubt that notice u/s 148 of the Act was issued on 29.07.2022 being clearly barred by limitation. In the case of the assessee the period of 6 years has expired on 31.03.2022 hence, the notice dated 29.07.2022 is clearly barred by limitation. The assessment proceedings u/s 147 of the Act is hereby quashed."

2.1 The Ld. DR relied on the orders of authorities below.

3. We have carefully considered the documents before us and have gone through the facts of the case. It is seen that indeed the notice u/s 148 of the Act ahs been issued on 27.07.2022, as his evidenced by a copy of the notice filed along with the additional ground of appeal. Considering the totality of facts and circumstances and also relying on the order in the case of Solo Hotels India Pvt. Ltd. (supra) it is held that the notice u/s 148 of the Act was issued beyond permissible time limit and hence the subsequent proceedings deserve to be treated as void.

3.1 Considering the findings given in the Hilton Dealmark Pvt. Ltd. case (supra), we find that for AY 2015-16 [ITA No. 302/Gty/2025] the notice was time barred and hence the consequential assessment is also void.

ITA No. 303/Gty/2025

4. Regarding ITA No. 303/Gty/2025, the assessee has raised following grounds of appeal:

"1. That the Learned Income Tax Officer, Ward-I-Imphal was not justify in

making addition u/s.69 of Rs.60,00,000/- to my income on account of unexplained investment which was wrongly confirmed by the Commissioner of Income Tax (Appeals).

2. The Learned Income Tax Officer-Ward-I-Imphal wrongly started proceeding u/s. 148A(b) and wrongly passed order u/s.148A(d), wrongly issued notice u/s.148 ignore section 151A And E-assessment of Income escaping assessment scheme, 2022 notified on 29/03/2022.

3. The Learned Income Tax Officer and the Commissioner of Income Tax (Appeals) was not justify in rejecting explanation filed by assessee that she has not made any investment in Hotel Maharani at Basti.

4. The Learned Income Tax Officer was not justify on relying on statement of third party which was later on retreated and in this connection he sworn an affidavit and copy sended to me.

I pray you to allow me to modify above ground and add new ground before the date of hearing.”

4.1 It was the submission that in the Ld. AO's order the impugned amount has been assessed in the hands of the assessee due to the statement of one Mr. Rahul Chowdhary. The assessee was admittedly not allowed to cross examine the said Mr. Rahul Chowdhary even when it was on the basis of his statement only that the impugned amount has been added in the assessee's hands.

5. Before us, the Ld. AR averred that the Ld. CIT(A) was wrong in holding (para 5.5 of the impugned order) that the assessee had denied the investment and failed to produce any evidence to disprove the finding of the Ld. AO. It was the submission by the Ld. AR that it was the duty of the department to show that the assessee had actually made the impugned investment and it was not fair to expect the assessee to prove that she had not made the investment. The Ld. AR prayed that this matter should be remanded back to the file of Ld. AO so that the assessee has a chance to cross examine the said Mr. Rahul Chowdhary and thereby also examine any evidence that the department may have in its possession to show that the impugned investment was actually made by her. The Ld. AR also pointed out that the additional evidence had been filed before the ITAT under Rule 29 of the ITAT Rules and requested that the same may be

admitted for adjudication.

5.1 the Ld. DR relied on the orders of authorities below.

6. We have carefully considered the rival submissions, have gone through the records before us and have also perused the paper book filed by the assessee. We have also examined the additional evidence presented before us. We have heard the Ld. AR/DR on the issue. It is a settled position that in case the assessee denies the ownership of any amount that is sought to be assessed in her hands then it is the responsibility of the department to show why such assessment should be made in the hands of the assessee. It cannot be expected that the assessee would prove that whatever she has denied is actually correct. Accordingly, we deem it fit to set aside the impugned order and remand this matter back to the file of Ld.AO for fresh assessment. The Ld. AO would duly handover copies of documents available with him to the assessee, on which the assessee would be free to file any rebuttal, as deemed fit. The Ld. AO would also consider the additional evidence filed before us and thereafter used the same for assessing the correct income of the assessee.

7. In result, ITA No. 302/Gty/2025 is allowed. ITA No. 303/Gty/2025 is partly allowed for statistical purposes, having been remanded back to the Ld. AO.

Order pronounced on 04.12.2025

Sd/-
[Manomohan Das]
Judicial Member

Sd/-
[Sanjay Awasthi]
Accountant Member

Dated: 04.12.2025

AK, Sr. PS

Copy of the order forwarded to:

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

//True copy//

By order

Assistant Registrar, Kolkata Benches