

IN THE INCOME TAX APPELLATE TRIBUNAL “RANCHI” BENCH, RANCHI
(VIRTUAL HEARING AT KOLKATA)

SHRI SONJOY SARMA, JUDICIAL MEMBER
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER

I.T.A. No. 288/RAN/2024
Assessment Year : 2011-2012

Hiralal Agencies Pvt. Ltd.,
1, Club Road, Main Road,
Ranchi - 834001
[PAN: AABCH0292H]

..... **Appellant**
vs.

Deputy Commissioner of Income Tax,
Circle-1, Ranchi,
Central Avenue Building,
Main Road, Ranchi - 834001

..... **Respondent**

Appearances by:

Assessee represented by : Devesh Poddar, AR
Department represented by : Md. Shadab Ahmed, Sr. CIT, DR

Date of concluding the hearing : 06.11.2025
Date of pronouncing the order : 20.11.2025

ORDER

PER SONJOY SARMA, JUDICIAL MEMBER:

This appeal by the assessee against the order of NFAC, Delhi dated 24.05.2024 arises out of the order of the Assessing Officer passed under Section 147 read with Section 144 of the Income-tax Act, 1961 (“the Act”) for the assessment year 2011-12.

2. Background and facts of that case are that the assessee filed its return of income declaring a total income of ₹1,78,71,900/-. The case was selected for scrutiny, and assessment under Section 143(3) of the Act was completed on 07.03.2014, determining the total income at ₹1,90,18,590. Subsequently, the Assessing Officer noticed certain discrepancies in the assessee’s receipts. With the prior approval of the Principal Commissioner

of Income Tax (PCIT), Ranchi, under Section 151(1) of the Act, notice under Section 148 was issued on 11.08.2017 for reopening the completed assessment. During the reassessment proceedings, a certified copy of the reasons recorded for reopening was furnished to the assessee. The assessee was also issued notice under Section 142(1) of the Act. On examination of the ledger accounts, the AO observed that the assessee, being a contractor, had shown receipts from blasting, site clearance, and mining aggregating to ₹25,70,23,111/-. However, the gross receipts as per the profit and loss account were only ₹22,53,03,395/-, resulting in a difference of ₹3,18,98,916/-. The assessee was called upon to explain the difference. The AO found the assessee's explanation unsatisfactory as no supporting evidence or reconciliation was produced. Accordingly, the AO added ₹3,18,98,916/- as unexplained receipts and determined the total income at ₹5,09,17,506/- vide order dated 17.12.2018 passed under Section 147 read with Section 144 of the Act.

3. Dissatisfied with the order of Ld. AO preferred an appeal before the Ld. CIT(A) where appeal of the assessee was dismissed sustaining the order of the AO.

4. Aggrieved, assessee has, inter alia, challenged the validity of the reassessment on the ground that the notice under Section 148 dated 11.08.2017 was issued beyond four years from the end of the relevant assessment year (A.Y. 2011-12), even though the original assessment had been completed under Section 143(3). The reasons recorded for reopening do not allege any failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment.

5. At the time of hearing, the Ld. AR stated that the instant case notice u/s 148 of the Act was issued to beyond 4 years prescribed under the law and reason for reopening do not allege any failure on the part of the assessee to disclose fully and truly all material facts necessary assessment.

He relied on the decision of the Hon'ble Supreme Court as in the case of CIT Vs. Foramer France (SC) 264 ITR 566 where the Hon'ble Apex Court held as under:

"Hon'ble Apex Court affirming the decision of Hon'ble Allahabad High Court in 119 taxman 61 observed that:- Whether since admittedly there was no failure on part of petitioner to make return or to disclose fully and truly all material facts necessary for assessment, proviso to new section, which bars issue of notice under section 148 after expiry of four years from end of relevant assessment year, squarely applied to facts of instant case and, therefore, impugned notice was barred by limitation - Held, yes"

The Ld. AR in order to substantiate his claim produced the copy of 148 notice dated 11.08.2017 to show that reason recorded do not mention any failure on the part of the assessee, accordingly it is barred by limitation and invalid in law.

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE DEPUTY COMMISSIONER OF INCOME TAX
DCIT/ACIT CIRCLE 1

To:
HIRALAL AGENCIES PRIVATE LIMITED
1, CLUB ROAD, MAIN ROAD
RANCHI 834001, Jharkhand
India

| | | | |
|--------------------|----------------|----------------------|---|
| PAN: AABCH0292H | AY: 2011-12 | Dated: 11/08/2017 | Notice No : ITBA/AST/S/148/2017-18/1005611012(1) |
|--------------------|----------------|----------------------|---|

Notice Under Section 148 Of The Income Tax Act, 1961

Sir/ Madam/ M/s,

Whereas I have reasons to believe that your Income chargeable to Tax for the Assessment Year 2011-12 has escaped Assessment within the meaning of section 147 of the Income Tax Act, 1961.

I, therefore, propose to assess/ re-assess the Income/ loss for the said Assessment Year and I hereby require you to deliver to me within 20 days from the service of this notice, a return in the prescribed form for the said Assessment Year.

This notice is being issued after obtaining the necessary satisfaction of the PCIT RANCHI

BHAWNA GULATI
 DCIT/ACIT CIRCLE 1
 भारतीय राजस्व विभाग
 BHAWNA GULATI
 आय एवं सेवाएँ
 Dy. Commissioner of Income-tax
 अंचल-1, रांची
 Circle-1, Ranchi

Note: The date of digital signature (if any) may be taken as date of document
 CENTRAL REVENUE BUILDING, 6 MAIN ROAD, RANCHI, Jharkhand, 834001
 Email: RANCHI.DCIT1@INCOMETAX.GOV.IN.

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Therefore, the instant order passed by the AO liable to be set aside.

6. We have carefully considered the submissions of both sides and perused the material on record. It is an admitted fact that the original assessment was completed under Section 143(3) on 07.03.2014 and that the notice under Section 148 was issued on 11.08.2017 clearly beyond four years from the end of the relevant assessment year (31.03.2012).

7. In such a situation, the first proviso to Section 147 becomes applicable, which restricts reopening beyond four years unless there is a failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment. On perusal of the reasons recorded by the AO (as placed in the paper book, page 8), we find that nowhere has the AO alleged or recorded any failure on the part of the assessee to disclose material facts. The reasons merely refer to a difference in receipts noticed subsequently, without attributing any omission or concealment by the assessee. The Hon'ble Supreme Court in the case of *CIT v. Foramer France* [264 ITR 566 (SC)] has categorically held that where an assessment has been completed under Section 143(3) of the act and there is no allegation of failure on the part of the assessee to disclose fully and truly all material facts, a notice issued under Section 148 beyond four years is invalid. The ratio laid down in *Foramer France* (supra) squarely applies to the present case.

8. Following the same principle, since in the instant case the notice under Section 148 of the Act was issued on 11.08.2017, i.e., beyond four years from the end of A.Y. 2011-12, and the reasons recorded do not mention any failure on the part of the assessee, the reopening is barred by limitation and invalid in law.

9. Accordingly, the reassessment order passed under Section 147 read with Section 144 of the Act is quashed and appeal of the assessee is allowed.

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

Order pronounced on 20.11.2025

Sd/-
(Ratnesh Nandan Sahay)
Accountant Member

Sd/-
(Sonjoy Sarma)
Judicial Member

Dated: 20.11.2025

AK, Sr. P.S.

Copy of the order forwarded to:

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

//True copy//

By order

Assistant Registrar, Kolkata Benches