

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, KOLKATA

SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

**I.T.A. No.2156/Kol/2025
(Assessment Year 2016-17)**

Gitika Rani Majumder,

C/o Pawan Kumar Agarwal (Jr.),

P-912, Lake Town, Block A

Kolkata - 700089

[PAN: AKGPM1398D].....**Appellant**

vs.

Income Tax Officer

Ward 49(1), Kolkata,

Income Tax Office,

Manicktala, Civil Centre,

Uttarapan Complex DS-IV,

Kolkata - 700067..... **Respondent**

Appearances by:

Assessee represented by : Abhishek Bansal, AR

Department represented by : Mrinmoy Basak, Sr. DR

Date of concluding the hearing : 15.12.2025

Date of pronouncing the order : 19.12.2025

ORDER

The present appeal filed by the assessee arises from order dated 23.07.2025 passed u/s 250 of the Income Tax Act, 1961 (hereafter "the Act") by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereafter "the Ld. CIT(A)].

2. The Ground No. 1 is general in nature and needs no any adjudication.

3. Ground No. 2 is against the notice u/s 148 of the Act dated 31.03.2021 being barred by limitation as it was served upon the assessee

on 01.04.2021 and consequently, the entire proceedings including the assessment framed is invalid and bad in law.

4. The facts in brief are that the assessee filed return of income of Rs. 5,52,530/-. The case of the assessee was reopened u/s 147 of the Act by issuing notice u/s 148 of the Act on 31.03.2021 which was served upon on the assessee on 01.04.2021. The assessment was framed u/s 147 read with section 144B of the Act vide order dated 29.03.2022 by making an addition of Rs. 6,36,502/- to the income of the assessee u/s 69 of the Act as unexplained investment. The Ld. CIT(A) confirmed the assessment order.

5. The Ld. AR vehemently submitted before us that notice issued u/s 148 of the Act dated 31.03.2021 is barred by limitation as the same was served upon the assessee on 01.04.2021. The Ld. AR placed before the Bench, a copy of ITBA portal which showed that it was served on 01.04.2025 at 4.02 am. The copy of the notice u/s 148 of the Act as well as the copy of email is extracted below:

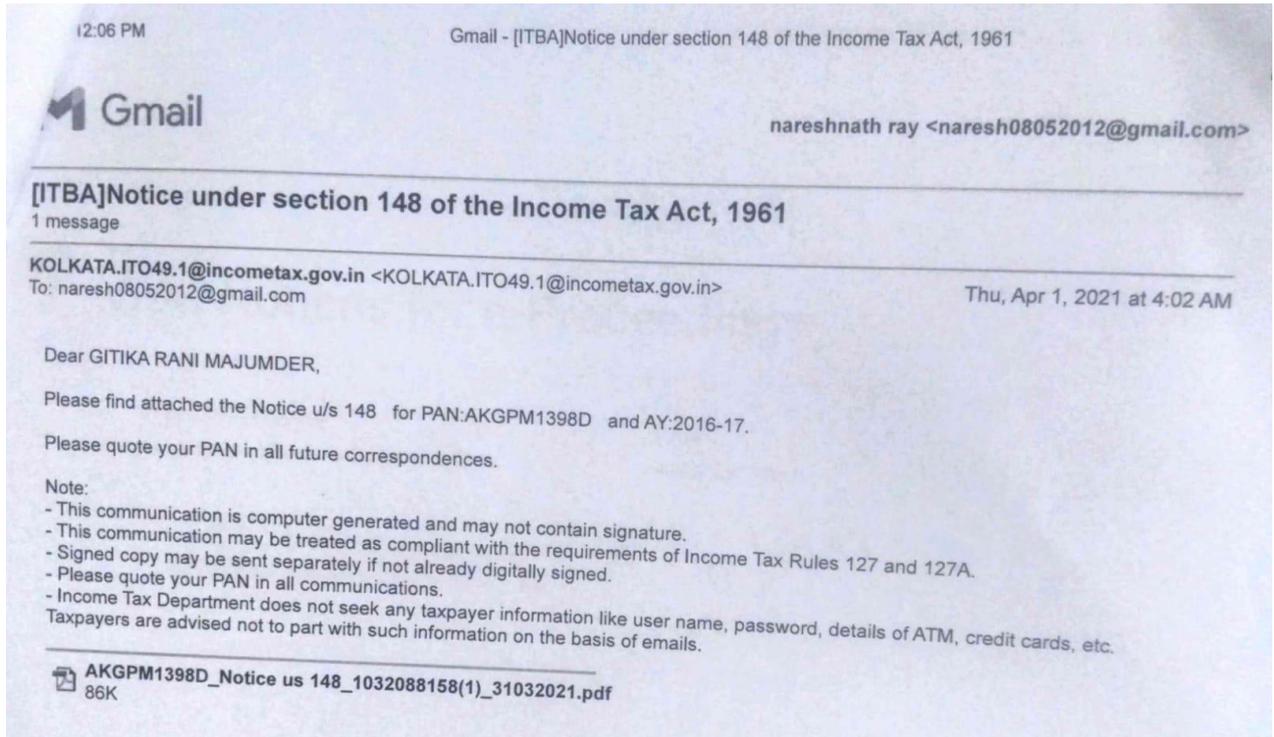
“Notice Under Section 148 Of The Income Tax Act, 1961

Sir/Madam/ M/s,

Whereas I have reasons to believe that your Income chargeable to Tax for the Assessment Year 2016-17 has escaped Assessment within the meaning of section 147 of the Income Tax Act, 1961.

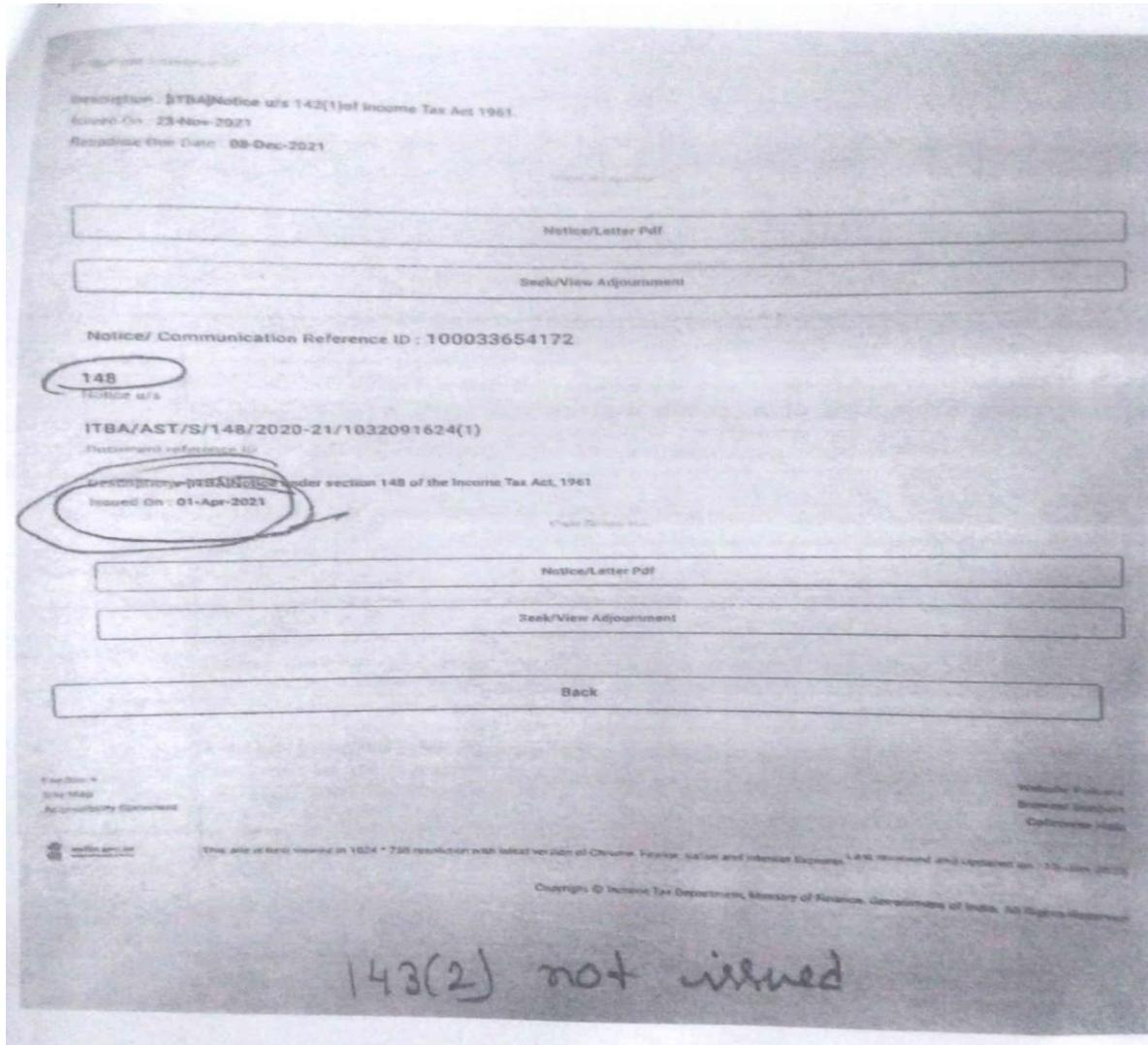
I, therefore, propose to assess/ re-assess the income/ loss for the said Assessment Year and I hereby require you to deliver to me within 30 days from the service of this notice, a return in the prescribed form for the said Assessment Year.

This notice is being issued after obtaining the necessary satisfaction of the RANGE 49, KOLKATA.”



6. Therefore, notice was served after the time period prescribed under the Act. Considering the factum of notice being time barred by limitation , the notice as well as the assessment framed is bad in law. The case of the assessee is supported by the decision of Manorama Patwa Vs. ITO, Ward 47(1), ITA No. 493/Kol/2025 and in the case of Sunita Agarwal, Vs. NFAC, Delhi ITA No. 148/Pat/2025. The operative part of the decision in the case of Manorma Patwa (supra) are extracted below:

“6. Upon hearing the submission of the counsels of the respective parties, we have perused the orders of lower authorities and find that notice u/s 148 was issued in fact on 01.04.2021 and not on or before 31.03.2021 for the assessment year in question and the screen shot as provided by the Ld. AR is as under:



6.1 We note that the Assessing Officer had issued notice u/s 148 of the Act on 01.04.2021 without complying the statutory formalities under section 148A of the Act as prescribed by the Finance Act, 2021 which are applicable w.e.f 01.04.2021 before issuance of notices under section 148 of the Act. We have gone through the order passed by the Hon'ble Calcutta High Court in the case of *Marudhar Vintrade Pvt. Ltd. vs. Union of India & Ors.* in which the Hon'ble Calcutta High Court has held as under:

"Heard learned advocates appearing for the respective parties.

Petitioner in this writ petition is aggrieved by the issuance of impugned notice under section 148 of the Income Tax Act, 1961 on the grounds that the same is barred by limitation and that the respondent-income tax authority concerned, before issuing the impugned notices under section 148 of the 1961 Act, has not observed the statutory formalities under section 148A of the 1961 Act as prescribed by the Finance Act, 2021 which are applicable with effect from 1st April 2021 before issuance of notices under section 148 of the 1961 Act on or after 1 April 2021

Learned advocate for the respondent was asked as to whether final assessment order has already been passed or not in this case to which he submits that final assessment order has already been passed. He further submits on the basis of record that the impugned notice under section 148 of the 1961 Act, though it bears date and signature of the authority showing that it was signed on March 31, 2021, but it was actually uploaded for communication on April 1, 2021 at 3 am which has to be treated as date of issuance of the impugned notice. Considering these facts, I am of the considered view that this case clearly falls under the amended Act relating to proceedings under section 147 of the Act under which issuance of notice under section 148A of the Act is mandatory before issuing any notice under section 148 of the amended Act which has not been complied with in this case.

Considering the above facts and circumstances of the case and in view of the order of this court in the case of Bagaria Properties and Investment Private Limited & Anr. v. Union of India & Ors. reported in (2022) 134 taxman.com 196 (Calcutta) and also in the case of Monoj Jain v. Union of India reported in (2022) 134 taxman.com 173 (Calcutta), the impugned notice under section 148 of the Act and all subsequent proceedings are not sustainable in law and the same are quashed

However, quashing of the impugned notice and proceeding will not debar the respondent authority concerned to issue any fresh notice in future in accordance with law.

With the above observations, WPA No. 4382 of 2022 stands disposed of"

6.2 Going over the order passed by the lower authorities and considering the judgment of the Hon'ble Calcutta High Court, we hold that notice dated 01.04.2021 has been issued beyond the limitation time and all subsequent proceedings are therefore invalid and the appeal of the assessee is allowed.

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

7. We, therefore respectfully following the decision of the coordinate Bench, quash the notice issued u/s 148 of the Act as well as the assessment framed consequently.

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

Order pronounced on 19.12.2025

Sd/-
(Rajesh Kumar)
Accountant Member

Dated: 19.12.2025
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