

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E': NEW DELHI**

**BEFORE
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**AND
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER**

**ITA No.5113/Del/2025, A.Y. 2016-17
ITA No.5114/Del/2025, A.Y. 2017-18**

The Hisar Leading Bank Co-op Non-Agri Thrift & Credit Society Shop No. 52-53, Saini School, Mohalla Saniyan, Hisar(Haryana)-125001, Hisar PAN: AADAT3893L	Vs.	Income-tax Officer, Ward-I, Hisar
(Appellant)		(Respondent)

Appellant by	Sh. Prem Rajpal, Adv.
Respondent by	Ms. Ankush Kalra, Sr. DR

Date of Hearing	11/12/2025
Date of Pronouncement	24/12/2025

ORDER

PER RAJ KUMAR CHAUHAN (J.M.):

By this common order, we propose to dispose of ITA Nos. 5113.Del.2025, A.Y. 2016-17 & 5114.Del.2025, A.Y. 2017-18 as the

parties are the same and issues are also same. Both these appeals are directed against the orders of even date 30.06.2025 passed by the Ld. CIT(A)/NFAC, New Delhi. The ITA No. 5113. Del.2025 for A.Y. 2016-17 is taken as the lead case.

- 2.** The facts in brief are that the appellant/ assessee is a Non-Agri Thrift and Credit Co. Op. Society. ITR for the A.Y. 2016-17 under section 139(1) of the Income Tax Act, 1961 ('the Act') was not filed. Notice u/s 148 of the Act was issued on 16.04.2021. In view of directions of the Hon'ble Supreme Court in Union of India vs. Ashish Aggarwal, 2022 SCC online SC 543, the notice u/s. 148 of the Act issued between 01.04.2021 to 30.06.2021 are deemed to be the show cause notice issued under clause (b) of the Section 148A of the Act. Accordingly, notice u/s 148A(b) dated 25.05.2022 was issued without providing material, information and documents. Order u/s 148A(d) of the Act has been passed on 29.07.2022 which had no DIN and also without digital signature and had also not been issued in faceless manner. The assessee filed Income Tax Return ('ITR') in response to notice u/s 148 on 28.11.2022 declaring an income of Rs. 68,540/-. The assessee has filed reply to the statutory notices u/s 142(1) of the Act dated 19.01.2023 and 02.02.2023 along with audit report, balance sheet,

P&L account and other necessary documents having computation of income. Without affording proper opportunity and without service of notice, the assessment order dated 06.05.2023 was issued and addition of Rs. 6,04,79,580/- was made on account of cash deposited in bank account No. 0337030100000071 maintained with J & K Bank. The assessment order was passed without considering the documents, reply and was accordingly challenged before the Ld. CIT(A) who has dismissed the appeal observing that the appellant has failed to show/ enumerate as to how the assessment order was bad in law; the assessee has failed to produce necessary documents with respect to addition of cash deposit u/s 68 of the Act; regarding the stand of the assessee that there is non-service of the notice u/s 142(1) of the Act, it is noticed by the ld. CIT(A) that notice u/s 142(1) of the Act were issued on two dates i.e. 04.01.2023 and 19.01.2023 respectively. Hence, all the grounds of appeal were dismissed.

- 3.** Aggrieved by the impugned order, the assessee is in appeal before us and raised following grounds of appeal:

“On the facts and in the circumstances of the case and in law the ld. CIT(A), National Faceless Appeal Centre, has erred in:

- 1. Ld. CIT(A) has erred in upholding the validity of order u/s 147 r.w.s. 1448 of the income-tax Act dated 06-05-23, vide order dated 30-06-25. which is without jurisdiction:*

2. *Ld. CIT(A) has erred in confirming the order dated 06-05-23 u/s 147 r.w.s. 144B of the Act passed by the Assessment Unit, Income-tax Department.*
3. *Ld. CIT(A) has erred in confirming the addition of Rs. 6.04,79.580/- u/s 68 of the Income-Tax Act, 1961.*
4. *Ld. CIT(A) has erred in confirming the order dated 06-05-23, without affording adequate opportunity.*
5. *Ld. CIT(A) has erred in confirming the order dated 06-05-23, as proceeding initiated u/s 147 of the Act is without there being any reason to believe that income has escaped assessment.*
6. *Ld. CIT(A) has erred in confirming the order dated 06-05-23, as order passed u/s 147 r.w.s 1448 of the Act by Ld. AO without providing copy of reasons, copy of approval granted by Specified Authority.*
7. *Ld. CIT(A) has erred in confirming the order dated 06-05-23, as notices u/s 142(1),1448, 148A(b), 148, SCN, 143(2) & order u/s 148A(d) issued by Ld. AO have not been served, as all the notices have been sent on e-mail ID pan 2010 reg@yahoo.com, but as per PAN profile our e-mail ID is sunnysaini613@gmail.com.*
8. *Ld. CIT(A) has erred in confirming the order dated 06-05-23, as notice u/s 148 of the Act dated 29-07-22 has not been issued as per Notification S.O.1466(E) (NO. 18/2022/F No. 370142/16/2022 IPL (Part-I), Dated 29-03-2022.*
9. *Ld. CIT(A) has erred in confirming the order dated 06-05-23, as notice u/s 148 of the Act dated 29-07-22 uploaded on portal is without digital signature & intimation letter dated 30.07.2022 for issue of notice u/s 148 of the Income Tax Act, 1961 uploaded on portal is without PAN & without digital signature.*
10. *Ld. CIT(A) has erred in confirming the order dated 06-05-23 as notice u/s 148 of the Act dated 29-07-22 is time-barred.*
11. *Ld. CIT(A) has erred in confirming the order that income is chargeable to tax as per provisions of section 115BBE of the Act*
12. *Ld. CIT(A) has erred in confirming the order, as procedure as per 144B of the ACT has not been followed by Ld. AO.*
13. *Ld. CII(A) has erred in confirming the order, as notice u/s 148 of the Act was issued on 16-04-21 which was not served & without closure of proceedings of notice u/s 148 dated 16-04-21 before 29-07-22 & notice again issued u/s 148 of the Act dated 29-07-22 is bad in law.*

The above actions being arbitrary, erroneous and unlawful must be quashed with directions for appropriate relief."

4. We have noticed that the appellant/assessee has moved an application in both the appeals for admission of additional ground of appeal as under:

"On the facts and circumstances of the case the Ld. CIT(A) has erred both on facts and in law in confirming the initiation of proceedings under section 147 which is bad in law having been made without proper sanction as prescribed under section 151, 151(ii) of the Income-tax Act."

5. We have heard the ld. AR and Ld. DR on the application for admission of the additional ground. The Ld. AR submitted that since the additional ground is purely a legal ground, hence same needs to be admitted and reliance has been placed on the case of the Hon'ble Supreme Court in National Thermal Power Company Ltd. vs. CIT (1998) 229 ITR 383 (SC). The Ld. DR has simply relied upon the order of the lower authorities and left it to the discretion of the Court with respect to the admission of legal ground.
6. We have considered the rival submissions and on perusal of the additional ground as enumerated above, it is evident that it is a purely legal question raised, hence, in view of judgment of the Hon'ble

Supreme Court in the case of National Thermal Power (supra), the same is admitted for disposal.

7. With respect to the additional ground, it has been argued that the notice u/s 148 of the Act dated 29.07.2022 in both the appeals shows that the approval has been taken of Principal CIT(A), Rohtak whereas due to the introduction of new assessment tax regime from 1st April, 2021 and in the compliance of the Hon'ble Supreme Court order in the case of Ashish Aggarwal (supra), the sanctioning Authorities should have been Pr. Chief Commissioner or Pr. Director General or the Chief Commissioner but in this case the approval has been obtained from the Pr. Commissioner of Income Tax which is not the competent authority to grant the permission. It is therefore, submitted that the show cause notice u/s 148 of the act is therefore, bad in law and the appeal is required to be allowed and the notice needs to be quashed.

8. In support of his case, the ld. AR has relied the judgment of the Co-ordinate Bench decision in ITA No. 1100/Del/2025 for A.Y. 2016-17 order dated 27.08.2025 where identical issue is decided while quashing the notices issued u/s 148 of the Act as the permission was granted only by Pr. Commissioner and not by Pr. Chief Commissioner.

9. The Ld. Departmental Representative (in short 'DR') on the other hand simply relied upon the order of the lower authorities.
10. We have considered the rival submissions and examined the record. The assessee has filed paper book containing 10 pages before us. The page 9 contains the notice u/s 148 of the Act and para 3 of the said notice states "*this notice is being issued after obtaining the approval of Pr. CIT, Rohtak*". The same is the case in ITA No. 5114/Del/2025, A.Y. 2017-18.
11. On perusal of the judgment of the Co-ordinate Bench in ITA No. 1100/Del/2025 (supra) referred, we have noticed that the fact/ issue is identical and the finding of the Ld. Hon'ble co-ordinate Bench on the similar/identical issue is squarely applicable to the facts and the notices u/s 148 of the Act issued in these cases. To understand the said facts the contents of para 5 onwards of the co-ordinate Bench are extracted as below:

"5. Ld. Counsel for the assessee has raised the legal ground no. 6 and stated that first notice u/s 148 was issued on 28.05.2021 for the A.Y. 2016-17 under the old reassessment tax regime, however due to the introduction of new reassessment tax regime from 01-04-2021 and in the compliance of the Hon'ble Supreme Court Order in the case of Ashish Agarwal notice u/s 148A(b) of the Act was issued on 18-05-2022 and consequent order under section 148A(d) of the Act on 28-07-2022 was issued. The case of the

assessee relates to the A.Y. 2017-17 and the notice/order was issued on 28-07-2022 after a period of three years from the end of o relevant assessment Year, the sanctioning authority should have been Principal Chief Commissioner or Principal Director General or Chief commissioner but in this case the approval has been obtained from the Pr. Commissioner of Income Tax, which is not the competent authority to grant the permission. This issue is squarely covered by the Judgement of Hon'ble Jurisdictional Delhi High Court in the case of Communist Party of India (Maxist) V. CIT(Ex) WP 9031/2023 dated 28-04-2025 and the case of Sampark Management Consultancy LLP v. DCIT, Circle 5(2) (1) Noida ITA NO. 6025 & 6026/Del/2024 dated June 25, 2025. In the case of Sampark Management Consultancy LLP v. DCIT, Circle -5(2) (1) Noida the Co-ordinate bench held as under:

“3. We find that section 148 of the Act was substituted by the Finance Act, 2021 wet. 01.04.2021. Notice 14 of the Act as per the old provisions of section 148 of the Act applicable till 31.03.2021 should have been issued only upto 31.03.2021. The issue stands settled by the Hon'ble Supreme Court in Union of India vs Ashish Agarwal, 444 ITR 1 (SC) The assessee company was part of the litigations. The AO has issued notice u/s 148A(b) on 27.05.2022 and on 28.07.2021 order was passed u/s 148A(d) and issued notice is 148 of the Act on the same date, ie, on 28.07.2022 in AY 2016-17 and while in AY 2017-18 on 27.07.2022 order was passed u/s 148A(d) and issued notice w/s 148 of the Act on 28.07.2022. This notice dated 28.07.2022 u/s 148 of the Act, available at page 14-15 of the paper book for AY 2016-17 and on pages 16-17 for PB for AY 2017-18, and same are shown to be issued after obtaining approval of Principal Commissioner of Income-tax, Noida. This approval is contrary to the provisions of section 151 of the Act as amended/substituted by the Finance Act, 2021 because, as per section 151 of the Act, if more than three years have lapsed from the end of the relevant assessment year, approval of Principal Chief Commissioner of Income-tax or Principal Director General or Chief Commissioner or Director General was required to be obtained. In the present assessment years, notices u/s 148 have been issued on 28.07.2022 after expiry of three years from the end of relevant assessment years. Accordingly, sanction/ approval of Principal Chief Commissioner of Income-tax or Principal Director General or Chief Commissioner or Director General was required

to be obtained. Reliance in this regard is placed on the decision of the Hon'ble Supreme Court in Union of India vs. Rajeev Bansal, 2024 (10) TMI 264 SUPREME COURT) and various decisions. Thus, the approval is not sustainable under law. The grounds as raised deserves to be sustained. Consequently, the appeals of the assessee are allowed."

6. The Ld. Sr. DR has relied the order of the lower authorities and submitted that the notice/ order was issued after taking the prior approval from the authority as per the directions of the Hon'ble Supreme Court in the case of Ashish Agarwal [2022] 444 ITR 1 SC. In the present case the notice was issued on 28-07-2022 for the A.Y. 2016-17 from the prior approval of the Pr. Commissioner, without, the approval of the authority specified u/s 151 of the Act. The notice was issued beyond the period of three years from the end of the relevant assessment year, thus in term of section 151(ii) of the Act the sanction was required to be approved by the Principal Chief Commissioner or Principal Director General or where there is no such authority, by Chief Commissioner or Director General. Respectfully following the decision of the Hon'ble High Court and the Co-ordinate Bench we allowed the appeal of the assessee and quashed the assessment order dated 20-04-2023.

7. We allowed the appeal of the assessee on legal ground the other grounds have become academic and keep them open for adjudication.

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

12. In view of the facts and circumstances and respectfully agree with the finding of the Ld. Co-ordinate Bench ITA No. 1100/Del./2025 (supra) referred and the notice u/s 148 of the Act dated 29.07.2022 for A.Y. 2016-17 as well as A.Y. 2017-18 are liable to be quashed as the same are not issued with the permission of the competent authority. In the cases before us the notice u/s 148 of the Act is dated 29.07.2022 and

the same has been issued after expiry of three years of the relevant assessment years i.e. 31.03.2017 (A.Y. 2016-17) and 31.03.2018 (A.Y. 2017-18), thus in terms of section 151(ii) of the Act the sanction was required to be approved by the Pr. Chief Commissioner or the Pr. Director General or where there is no such authority, by the Chief Commissioner or Director General. Therefore, respectfully following the decision of the Ld. Co-ordinate bench ITA No. 3395 (supra), the legal ground raised by the assessee in both the appeals, accordingly allowed in favour of the assessee. The notice u/s 148 dated 29.07.2022 in both the appeals are held to be bad in law and the assessment order dated 16.05.2023 and 23.05.2023 respectively in both the appeals stands quashed.

- 13.** In view of the decision on the additional ground/ legal ground, the decision on another grounds rendered academic and we keep the same open for adjudication. Consequently, the appeal of the assessee is allowed in above terms.

ITA No. 5114/Del/2025, A.Y. 2017-18

- 14.** In view of the finding return in ITA No. 5114/Del/2025 since, the facts and issues are identical and the notice under section 148 of the

Act is issued on same date, the findings returned in ITA No. 5113/Del./2025, (A.Y. 2016-17) shall mutatis mutandis apply to this appeal also. The appeal of the assessee is allowed in above terms in favour of the assessee.

15. In the result, both appeals of the assessee are allowed.

Order pronounced in open Court on 24th December, 2025

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated: 24th/12/2025
Binita, Sr. PS

Sd/-
(RAJ KUMAR CHAUHAN)
JUDICIAL MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT/PCIT
4. CIT(Appeals)
5. Sr. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI