

IN THE INCOME TAX APPELLATE TRIBUNAL “G” BENCH, MUMBAI

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT AND
SHRI JAGADISH, ACCOUNTANT MEMBER**

ITA No. 6628/Mum/2025
(Assessment Year: 2015-16)

Swami Vivekanand College B-906 Cluster 3, Mira Road (E), Mira Road S.O., Thane-401 107	Vs.	Income Tax Officer, Ward-4(4) Asher IT Park, 6 th Floor, Near MIDC, Road No. 16 Z, Wagle Industrial Estate, Thane-400 604
PAN/GIR No. AAETS 9320 H		
(Appellant)	:	(Respondent)

Appellant by	:	Shri Prakash G. Jhunjhunwala & Shri Saiprasad Ghosh
Respondent by	:	Shri Arun Kanti Datta – CIT DR

Date of Hearing	:	17.12.2025
Date of Pronouncement	:	05.01.2026

ORDER

Per Saktijit Dey, Vice President:

This is an appeal by the assessee against order dated 09.09.2025 of National Faceless Appeal Centre (‘NFAC’ for short), Delhi for the assessment year (A.Y. for short) 2015-16.

2. In ground no. 1, the assessee has challenged the validity of notice issued u/s. 148 of the Act, being barred by limitation. Identical issue has been raised by the assessee through an additional ground filed on 12.12.2025. Since, the issue raised by the assessee is a purely legal and jurisdictional issue going to the root of the matter and can be decided based on the facts available on record, we are inclined to admit the additional ground for adjudication and proceed to decide it at the very outset.

3. Briefly, the facts are, as alleged by the Assessing Officer (A.O. for short), for the assessment year under dispute, the assessee had not filed any return of income u/s. 139(1) of the Act. Based on information available in the INSIGHT portal, the A.O. found that the assessee during the year under consideration had undertaken transactions in the form of cash deposits. Based on such information, the A.O. reopened the assessment u/s. 147 of the Act by issuing a notice u/s. 148 of the Act on 13.04.2022. Ultimately, the A.O. completed the assessment vide order dated 08.03.2024, determining the total income at Rs.1,09,65,970/-.

4. Though, the assessee preferred an appeal before ld. first appellate authority, challenging the assessment order, however, the appeal was dismissed.

5. Before us, ld. Counsel appearing for the assessee submitted that the A.O. had no power to reopen the assessment u/s. 147 of the Act under the old regime after expiry of six years from the end of the relevant assessment year. He submitted, since the assessment year involved is A.Y. 2015-16, the A.O. could have reopened the assessment by issuing a notice u/s. 148 of the Act on or before 31.03.2022. That having not been done, the A.O. losses his power to reopen the assessment. In support of such contention, ld. Counsel relied upon the following decisions:

1. *Union of India v. Rajeev Bansal* [2024] 167 taxmann.com 70
2. *Cherian Nallathu Abraham Annamma vs. ITO* 179 Taxmann.com 433 (Bom-HC)
3. *Babu Hasan Shaikh vs. ITO* (ITA No. 926/Mum/2025)
4. *Hexaware Technologies Ltd. vs. ACIT* (162 Taxmann.com 225 (Bom-HC))
5. *Shree Cement Ltd. vs. ACIT* (177 Taxmann.com 538 (Rajasthan-HC))
6. *Cyberabad Citizens Health Services P. Ltd. vs. DCIT* (Writ Petition No. 25121 of 2024 (Telangana-HC))
7. *Ramesh Dandumal Chachlani vs. ITO* (ITA No. 4874/Mum/2024)
8. *Ameya Balkrishna Kulkarni vs. ITO* (ITA No. 4523/Mum/2024)

6. The Id. Departmental Representative (Id. DR for short) strongly relied upon the observations of the first appellate authority.

7. We have considered rival submissions and perused the materials available on record. The issue arising for consideration lies within a narrow compass. In the facts of the present appeal, admittedly, the assessment year involved is A.Y. 2015-16. The A.O. passed the order u/s. 148A(d) and issued notice u/s. 148 of the Act on 13.04.2022, which is beyond the period of six years from the end of the assessment year under dispute. The issue which arises for consideration is, whether the time limit prescribed under the old regime could have been extended by Taxation and Other Laws [Relaxation and Amendment of Certain Provisions] (TOLA). While deciding identical nature of dispute, in case of *Union of India v. Rajeev Bansal* (supra) Hon'ble Supreme Court, taking note of the concession made by Id. Additional Solicitor General had held that the provisions of TOLA would not be applicable upto A.Y. 2015-16. Hence, the limitation to issue notice u/s. 148 of the Act expires on 31.03.2022. Following the ratio laid down by Hon'ble Supreme Court as aforesaid, the Hon'ble Jurisdictional High Court in case of *Cherian Nallathu Abraham Annamma vs. ITO* (supra) has held that notice issued u/s. 148 of the Act after 31.03.2022 in respect of A.Y. 2015-16 is barred by limitation. The other decisions cited by Id. AR lay down the same principle.

8. In view of the aforesaid, we hold that the notice issued u/s. 148 of the Act in the present case is barred by limitation, hence, *void-ab-initio*. As a natural corollary, the consequential proceedings based on such notice including the impugned assessment order are equally *void-ab-initio*. Accordingly, we quash it. The appeal is allowed on this limited issue. The other grounds having been rendered academic are kept open.

9. In the result, the appeal is allowed.

Order pronounced in the open court on 05.01.2026

Sd/-

Sd/-

(Jagadish)
Accountant Member

(Saktijit Dey)
Vice President

Mumbai; Dated : 05.01.2026

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai