

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE**

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
Ms. ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA No.2200/PUN/2025
Assessment year : 2015-16**

Kumar Matunga Project 2409, East Street, Camp, Pune - 411001	Vs.	ITO, Ward 7(1), Pune
PAN: AAOFK4611R		
(Appellant)		(Respondent)

Assessee by : Shri Nikhil S Pathak
Department by : Shri Amol Khairnar, CIT-DR
Date of hearing : 08-01-2026
Date of pronouncement : 09-01-2026

ORDER

PER R.K. PANDA, V.P:

This appeal filed by the assessee is directed against the order dated 21.08.2025 of the Ld. CIT(A) / NFAC, Delhi relating to assessment year 2015-16.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the order of the Ld. CIT(A) / NFAC in upholding the validity of re-assessment proceedings.

3. Facts of the case, in brief, are that the assessee is a partnership firm engaged in the business of real estate. The assessee had not filed its return of income as per provisions of section 139(1) of the Income Tax Act, 1961 (hereinafter referred to

as 'the Act'). Information was available with the Assessing Officer that the assessee has purchased the immovable property for a consideration of Rs.7,50,00,000/- which remains unexplained. The Assessing Officer issued notice u/s 148 of the Act on 23.07.2022 in response to which the assessee did not file any return of income. Subsequent notice issued u/s 142(1) of the Act and the show cause notice issued u/s 144 of the Act also remained un-complied with. The Assessing Officer, therefore, completed the assessment determining the total income of the assessee at Rs.7,50,00,000/- as unexplained investment u/s 69 of the Act.

4. Before the Ld. CIT(A) / NFAC the assessee, apart from challenging the addition on merit, challenged the validity of re-assessment proceedings. So far as the merit of the case is concerned, it was argued that there are two firms / LLPs viz. Kumar Matunga Projects LLP having PAN : AAOFK9363N and Kumar Matunga Project having PAN: AAOFK4611R. It was argued that the transaction on which the reopening was made does not pertain to Kumar Matunga Project i.e. the assessee in the instant case. It was also submitted that the assessee is not having any knowledge about the completed proceedings of the assessment till the date of physical service of the order.

5. Based on the arguments advanced by the assessee, the Ld. CIT(A) / NFAC restored the issue to the file of the Assessing Officer with a direction to decide the

issue afresh and in accordance with law. He, however, did not adjudicate the ground challenging the validity of reopening of the assessment.

6. Aggrieved with such order of the Ld. CIT(A) / NFAC, the assessee is in appeal before the Tribunal.

7. The Ld. Counsel for the assessee at the outset referring to page 1 of the paper book drew the attention of the Bench to the notice issued u/s 148 of the Act for assessment year 2015-16 which is dated 16.04.2021. Referring to pages 2 to 4 of the paper book he drew the attention of the Bench to the notice issued u/s 148A(b) of the Act for assessment year 2015-16 which is dated 24.05.2022. Referring to page 5 of the paper book he drew the attention of the Bench to the notice issued u/s 148 of the Act for assessment year 2015-16 which is dated 23.07.2022. Similarly, the order passed u/s 148A(d) of the Act, copy of which is placed at pages 7 to 10 of the paper book is also dated 23.07.2022.

8. Referring to the decision of the Co-ordinate Bench of the Tribunal in the case of Motiwala Auto Private Limited vs. ITO vide ITA No.486/PUN/2025 order dated 09.12.2025 for assessment year 2015-16, the Ld. Counsel for the assessee submitted that under identical circumstances the Tribunal has quashed the re-assessment proceedings on the ground that the Revenue has conceded before the Hon'ble Supreme Court that no notice for assessment year 2015-16 can be issued

after 31.03.2022. He accordingly submitted that since the Assessing Officer in the instant case has passed order u/s 148A(d) as well as issued notice u/s 148 of the Act for assessment year 2015-16 on 23.07.2022, therefore, in view of plethora of decisions, such notice issued to the assessee u/s 148 of the Act on 23.07.2022 is bad in law and deserves to be quashed.

9. The Ld. DR on the other hand argued that due procedure has been followed for issue of notice u/s 148 of the Act.

10. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and the Ld. CIT(A) / NFAC and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. There is no dispute to the fact that the first notice issued u/s 148 of the Act for assessment year 2015-16 is dated 16.04.2021. Further, there is also no dispute to the fact that in consequence to the decision of Hon'ble Supreme Court in the case of Union of India vs. Ashish Agrawal reported in (2022) 138 taxmann.com 64 (SC), the Assessing Officer issued notice u/s 148A(b) of the Act on 24.05.2022. Further, the Assessing Officer passed the order u/s 148A(d) of the Act for the impugned assessment year on 23.07.2022 and issued notice u/s 148 of the Act also on 23.07.2022. Under these circumstances, we have to see as to whether such notice issued u/s 148 of the Act is in accordance with law or not.

11. We find an identical issue had come up before the Co-ordinate Bench of the Tribunal in the case of Motiwala Auto Private Limited vs. ITO (supra) where the Tribunal after considering various decisions has held that the notice issued u/s 148 of the Act for assessment year 2015-16 dated 25.05.2022 is bad in law and deserves to be quashed. The relevant observations of the Tribunal from para 7 onwards read as under:

“7. We have heard the rival arguments made by both the sides, perused the paper book filed by the Ld. AR on behalf of the assessee as well as various judicial precedents relied upon by the Ld. AR. Admittedly, there was non-compliance by the assessee before the Ld. AO which constrained him to pass an ex parte order qua the assessee. We observe that the order of the Ld. CIT(A)/NFAC is a non-speaking order and he has not adjudicated the matter on merits including the legal ground raised by the assessee and set aside the assessment order for denovo adjudication by the Ld. AO. Before us, the assessee has raised a legal ground (ground No. 1 reproduced above) challenging the validity of reassessment proceedings relying on the decision of Hon’ble Supreme Court in the case of Union of India Vs. Rajeev Bansal (supra) on the ground that the notice issued to the assessee under section 148 of the Act is barred by limitation. On perusal of this legal ground raised by the assessee, we find that it goes to the root of the matter and does not require verification of any additional/ new facts. Further, we find that the impugned issue raised in the said legal ground stands squarely covered in favour of the assessee by the decision of the Hon’ble Apex Court and the Hon’ble jurisdictional Bombay High Court as well as Co-ordinate Bench(es) of the Tribunal including the Pune Tribunal. In the absence of any contrary material brought on record by the Revenue, we deem it fit, in the interest of justice and fair play, to proceed and adjudicate the legal ground at this stage.

8. The facts of the case are not in dispute. The assessee received the notice u/s 148 of the Act for the relevant AY 2015-16 under consideration on 25.07.2022 from the Ld. AO/JAO (page 6 of the paper book refers). Under the old provisions of section 149, which will be applicable for the assessment year under consideration i.e. AY 2015-16, the notice u/s 148 would not have been issued beyond the period of 6 years from end of the relevant assessment year. The period of 6 years from the AY 2015-16 laps on 31.03.2022. As stated earlier notice u/s 148 was issued to the assessee on 25.07.2022 which is clearly beyond the time limit prescribed under the said provisions of the Act. We find that the Revenue has also conceded before the Hon’ble Supreme Court in the case of Rajeev Bansal (supra) that the provisions of Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA) is not applicable to the

notices issued for AY 2015-16. The relevant para of the judgment is reproduced below :

“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: (i) 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 re-assessment 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, PART C 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 with TOLA (or (2)	Within six Years	Expiry of Limitation read with TOLA for (4)
(1)	(2)	(3)	(4)	(5)
2013-2014	31-3-2017	TOLA not applicable	31-3-2020	30-6-2021
2014-2015	31-3-2018	TOLA not	31-3-2021	30-6-2021

		<i>applicable</i>		
2015-2016	31-3-2019	<i>TOLA not applicable</i>	31-3-2022	<i>TOLA not applicable</i>
2016-2017	31-3-2020	30-6-2021	31-3-2023	<i>TOLA not applicable</i>
2017-2018	31-3-2021	30-6-2021	31-3-2024	<i>TOLA not applicable</i>

- 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 show-cause 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).*

9. *Similarly, at para 46 of the order the Hon'ble Supreme Court has observed as under:*

“46. The ingredients of the proviso could be broken down for analysis as follows:

(i) no notice under Section 148 of the new regime can be issued at any time for an assessment year beginning on or before 1 April 2021; (ii) if it is barred at the time when the notice is sought to be issued because of the “time limits specified under the provisions of” 149(1)(b) of the old regime. Thus, a notice could be issued under Section 148 of the new regime for assessment year 2021-2022 and before only if the time limit for issuance of such notice continued to exist under Section 149(1)(b) of the old regime.”

10. *Finally, the Hon'ble Supreme Court at para 114 of the order has observed as under:*

“G. Conclusions

114. In view of the above discussion, we conclude that:

- a. After 1 April 2021, the Income Tax Act has to be read along with the substituted provisions;*
- b. TOLA will continue to apply to the Income Tax Act after 1 April 2021 if any action or proceeding specified under the substituted provisions of the Income Tax Act falls for completion between 20 March 2020 and 31 March 2021;*
- c. Section 3(1) of TOLA overrides Section 149 of the Income Tax Act only to the extent of relaxing the time limit for issuance of a reassessment notice under Section 148;*
- d. TOLA will extend the time limit for the grant of sanction by the authority specified under Section 151. The test to determine whether TOLA will apply to Section 151 of the new regime is this: if the time limit of three years from the end of an assessment year falls between 20 March 2020 and 31 March 2021, then the specified authority under Section 151(i) has extended time till 30 June 2021 to grant approval;*
- e. In the case of Section 151 of the old regime, the test is: if the time limit of four years from the end of an assessment year falls between 20 March 2020 and 31 March 2021, then the specified authority under Section 151(2) has extended time till 31 March 2021 to grant approval;*
- f. The directions in Ashish Agarwal (supra) will extend to all the ninety thousand reassessment notices issued under the old regime during the period 1 April 2021 and 30 June 2021;*
- g. The time during which the show cause notices were deemed to be stayed is from the date of issuance of the deemed notice between 1 April 2021 and 30 June 2021 till the supply of relevant information and material by the assessing officers to the assesses in terms of the directions issued by this Court in Ashish Agarwal (supra), and the period of two weeks allowed to the assesses to respond to the show cause notices; and h. The assessing officers were required to issue the reassessment notice under Section 148 of the new regime within the time limit surviving under the Income Tax Act read with TOLA. All notices issued beyond the surviving period are time barred and liable to be set aside;”*

11. *In the case of Spicy Sangria Hotels Pvt. Ltd. (supra), the Hon'ble Bombay High Court held as under:*

"2. The above Writ Petition is filed to quash and set aside the Notice dated 28th July 2022 issued under Section 148 of the Income Tax Act, 1961. The assessment year in question is A.Y.2015-16. As far as this assessment C) year is concerned, the Hon'ble Supreme Court in the case of Union of India Vs. Rajeev Bansal [2024] 469 ITR 46 (SC) in paragraph 19(f) has recorded the concession made by the learned ASG that for the A.Y.2015-16, all notices issued on or after 1st April 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. Admittedly in the facts of the present case, the Notice issued under Section 148 is after 1st April 2021 (namely, on 28th July 2022). This being the case, we find that in the facts of the present case, the Notice issued under Section 148 dated 28th July 2022 would have to be dropped and cannot be proceeded with further.

4. We accordingly quash and set aside the said notice dated 28th July 2022 issued under Section 148 of the IT Act."

12. *We also find the Pune Tribunal in the case of Vishnu Subhash Agarwal (supra) in turn relying on the decision of Hon'ble Supreme Court in the case of Rajeev Bansal (supra) has taken a similar view on the impugned issue in favour of the assessee by observing as under:*

"13. We find since the notice u/s 148 of the Act has been issued after the statutory due date as per the decision of the Hon'ble Supreme Court in the case of Union of India vs. Rajeev Bansal (supra), therefore, such notice for reopening being barred by limitation has to be quashed. We accordingly, quash the re-assessment notice issued by the Assessing Officer. Since the assessee succeeds on this legal ground i.e. validity of re-assessment proceedings, therefore, the grounds challenging the addition on merit are not being adjudicated being academic in nature. The grounds raised by the assessee are accordingly allowed."

13. *In view of the factual matrix of the case and legal position set out above and in the absence of any contrary material / judicial precedent brought on record by the Revenue, we hold that the impugned notice issued to the assessee under section 148 of the Act dated 25.07.2022 is bad in law and deserves to be quashed. Ground no. 1 (along with its sub-grounds 1.1 to 1.5) is accordingly allowed. As the assessee succeeds on this ground, the other grounds raised are rendered academic in nature and therefore not adjudicated.*

14. *In the result, the appeal of the assessee is allowed."*

12. Since the facts of the instant case are identical to the facts of the case decided by the Tribunal in the case of Motiwala Auto Private Limited vs. ITO (supra), therefore, respectfully following the same and in absence of any contrary material brought to our notice by the Ld. DR, the re-assessment proceedings are liable to be quashed. We hold accordingly. The grounds raised by the assessee are accordingly allowed.

13. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open Court on 9th January, 2026.

Sd/-

(ASTHA CHANDRA)
JUDICIAL MEMBER

पुणे Pune; दिनांक Dated : 9th January, 2026

GCVSR

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

Sd/-

(R. K. PANDA)
VICE PRESIDENT

आदेशानुसार/ BY ORDER,

// True Copy //

Assistant Registrar
आयकर अपीलीय अधिकरण ,पुणे
/ ITAT, Pune

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	08.01.2026		Sr. PS/PS
2	Draft placed before author	09.01.2026		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Office Superintendent			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			