IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A', NEW DELHI

BEFORE SH. C.N. PRASAD, JUDICIAL MEMBER
AND
SH. M. BALAGANESH, ACCOUNTANT MEMBER

ITA No.2953 & 2954/Del/2024
Assessment Year: 2015-16 & 2016-17

Best Bull Stock Trading Pvt. Ltd. **6/79, WEA, Padam Singh Road, Karol Bagh,** **New Delhi** **PAN No.AACCB7733N**	Vs	**ACIT** **Central Circle – 18** **Delhi**
(APPELLANT)		**(RESPONDENT)**

Appellant by	Sh. Ajay Vohra, Sr. Advocate Sh. Arpit Goyal, Advocate
Respondent by	Sh. Amit Jain, CIT DR

Date of hearing:	12/11/2025
Date of Pronouncement:	/01/2026

ORDER

PER C.N. PRASAD, JM:

These two appeals are filed by the assessee against the order of the Ld. CIT(A) -27, New Delhi dated 23.05.2023 for the A.Y. 2015-16 and 2016-17 in rendering a finding for initiating proceedings

u/s.147 of the Act, though be deleted the addition in the absence of any incriminating material found in the course of search.

2. The assessee has raised the following common grounds of appeal :-

> *"1. That on the facts and circumstances of the case and in law, the Commissioner of Income Tax, Delhi (Appeals)-27, New Delhi [the CIT(A)] has erred in directing the Assessing Officer under section 150(1) of the Income tax Act, 1961 (the Act) to initiate proceedings under section 147 of the Act, for the assessment year 2015-16.*
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> *2. That on the facts & circumstances of the case and in law, the CIT(A) did not appreciate that the directions issued under section 150(1) of the Act are beyond the scope and powers of section 150(1) of the Act read with Explanation (2) to section 153(6) of the Act.*
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> *3. That on the facts & circumstances of the case and in law, the CIT(A) did not appreciate that a finding/direction within the meaning of section 150 of the Act can be issued only where the income of a particular assessment year is taxable, for another assessment year and / or the income assessed in the hands of person "A" is liable to be assessed in the hands of person "B" i.e. person other than "A".*
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> *4. That on the facts & circumstances of the case and in law, the CIT(A) did not appreciate that since no incrementing material was found during search allegedly conducted on the Appellant, therefore, direction to initiate proceedings under section 147 of the Act, for the assessment year 2015-16 was beyond the scope of powers of the CIT(A)-the appellate authorities under the Act.*
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> *5. That on the facts & circumstances of the case and in law, the CIT(A) did not appreciate that the import of section 150(2) of the Act that overrides the provisions of section 150(1) of the Act.*
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> *6. That on the facts & circumstances of the case and in law, the CIT(A) did not appreciate that since the assessment for the assessment year 2015-16 made under section 153A r/w 143(3) of the Act has been annulled because no incrementing material was found during search, hence, there was fundamental lack of jurisdiction, as such, finding or direction to initiate proceedings under section 147, for the very same year is nothing but rowing and fishing enquiries, which is impermissible.*

7. That on the facts & circumstances of the case and in law, the CIT(A) did not appreciate that the information based on which order u/s. 153A/143(3) of the Act was concluded, was already available with the Income-tax Department. Inter-alia, Assessing Officer making addition on the ground of data gathered from stock exchange, which was already in the possession of the Department. No incriminating material found during the search relative to data gathered from stock exchange.

8. That on the facts & circumstances of the case and in law, the CIT(A) did not appreciate that invoking of section 153A of the Act merely on the basis of Panchanama in absence of execution of search u/s. 132 of the Income-tax Act.
9. That on the facts & circumstances of the case and in law, the CIT(A) did not appreciate that no action in pursuant to execution of search u/s. 132 of the Income-tax Act has been carried over at the office (place of operation) of the appellant merely for the reason that the appellant ceased to be in operation & given up the office (place of operation) as back as in October, 2016 and the action was carried over on 03/04 of December, 2019.

That the Appellant craves leave to add, alter, amend or vary any of the ground either at or before the hearing of the appeal."

3. Referring to grounds of appeal, especially ground NO.4, the Ld. Counsel for the assessee submitted that the Ld. CIT(A) gave directions to initiate proceedings u/s.147 of the Act and such directions are beyond the scope of powers of Ld. CIT(A). The Ld. Counsel for the assessee referring to the following decisions submitted that the Ld. CIT(A) do not have power to issue directions to the AO to initiate reassessment proceedings u/s.148 of the Act :-

i. ITO vs Murlidhar Bhagwan Das: [1964] 52 ITR 335 (SC)
ii. Munish Chander Khurana vs ITO: ITA No.9687/Del/2019 (Del Trib)
iii. DCIT vs Sh Vaibhav Banka Aakarshan: [2025] 176 taxmann.com 362 (Jpr Trib)

iv. G.S. Atwal & Co (Engg.) Pvt Ltd vs DCIT: ITA No.1937/Kol/2019 (Kol 16 Trib)

v. ITO vs Sri Biswajit Chatterjee: ITA No.565/Kol/2013 (Kol Trib)

vi. Marubeni India (P) Ltd vs CIT: [2010] 236 CTR 234 (Del)

4. On the other hand the Ld. DR strongly supported the orders of the Ld. CIT(A).

5. Heard rival submissions, perused the orders of the authorities below. The issue as to whether the Ld. CIT(A) is empowered to give directions to the AO to initiate reassessment proceedings u/s.148 of the Act, came up for consideration before the coordinate Bench of ITAT Jaipur in the case of DCIT Vs. Sh. Vaibhav Banka Aakarshan reported in 176 taxmann.com 362 and the Tribunal held that such directions is beyond the scope of powers of Ld. CIT(A). While holding so the Tribunal observed as under :-

> *13. Now coming to the cross objection filed by the assessee against the appeal filed by the revenue. As the appeal of the assessee was allowed by the id. CIT(A) on technical ground but while allowing that appeal of the assessee on technical ground he directed the id. AO to implement judgment of Hon'ble Supreme Court in the case of Abhisar Buildwell 2023 149 taxmann.com and the CBDT Instruction No. 1 of 2023 dated 23.8.2023. This direction is challenged by the assessee in cross objection filed stating that the action of the CIT(A) is illegal, unjustified, arbitrary, and against the facts of the case*
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> *As is evident from the order of the Id. CIT(A) that after granting relief on technical ground Id. CIT(A) further directed the Id. AO to initiate appropriate proceedings under Section 147/148 of the Act relying on the same judgment of Abhisar Build well (supra), CBDT Instruction No. 1/2023 (CLC 35-40), and the provisions of Section 150 of the Act.*

The assessee, while supporting the ultimate relief granted, is aggrieved by the directions given by the 14 CIT(A) in his order suggesting the AO initiate proceedings under Section 147/148 of the Act. The assessee therefore before us by preferring the present Cross-Objection to challenge the dis that ld. CIT(A) vide other legal and factual grounds in support of the deletion of the addition. Record reveals that IdaCIT(A) vide page 36 while dealing with the appeal of the assessee has issued direction to the Id. AO which reads as under

"Accordingly, the judgement of Hon'ble Supreme Court in the case of Abhisar Buildwell (supra) and U K. Paints (supra) are squarely applicable to the facts of the case. Accordingly, following the judgment of honorable Supreme Court it is held that the Id. AO rightly issued notices u/s 133A of the Act and at the same time the impugned addition made in assessment order u/s 153A cannot be sustained and is hereby deleted as the same is without basis of incriminating material unearthed during the search action on the appellant and impugned addition could have been done by the learned assessing officer in re-assessment proceedings by issuance of notice under section 147/148. The Id. AO is directed to take necessary action in this regard. Further, the CBDT (IT) Section) has issued Instruction No. 1 of 2023 dated 23-08-2023 vide F.No. 279/Misc/M-54/2023-ITJ on the subject "Implementation of the judgment of the Hon'ble Supreme Court in the case of Pr.CIT (Central-3) v/s AbhisarBuildwell Pvt. Ltd. (Civil Appeal No. 6580 of 2021)-Instruction regarding". The learned assessing officer is directed to implement the law and ratio of the judgement of AbhisarBuildwell (supra) and the said Instruction No. 1 of 2023 dated 23-08-2023 and section 150 of the Act, in the case of the appellant appropriately as per the facts of the case and as per above findings.

Accordingly this ground of appeal is adjudicated in above terms. For statistical purposes this ground is hereby treated as allowed"

Before us the Id. AR of the assessee submitted that the appeal of the assessee has decided considering the two dmark judgment of apex court in the case of Abhishar Buildwell and U. K. Paints (supra). Thus, the issue before us is to be decided considering the following records placed on record:

1. Decision of the apex court in the case of Abhisar Buildwell & U. K. Paints.

2. Miscellaneous Application filed by Revenue before the apex court

3. CBDT's Instruction No. 1 of 2023 dated 23-08-2023

As is evident the cross objection of the assessee hinges on the provision of section 150, 251, Miscellancous application filed by the revenue before the apex court and CBDT's instructions. The provision of section 150 deals as under:

Provision for cases where assessment is in pursuance of an order on appeal, etc.

150. (1) Notwithstanding anything contained in section 149, the notice under section 148 may be issued at any time for the purpose of making an assessment or reassessment or recomputation in consequence of or to give effect to any finding or direction contained in an order passed by any authority in any proceeding under this Act by way of appeal, reference or revision or by a Court in any proceeding under any other law.

(2) The provisions of sub-section (1) shall not apply in any case where any such assessment, reassessment or recomputation as is referred to in that sub-section relates to an assessment year in respect of which an assessment, reassessment or recomputation could not have been made at the time the order which was the subject-matter of the appeal, reference or revision, as the case may be, was made by reason of any other provision limiting the time within which any action for assessment, reassessment or recomputation may be taken.

Section 251 reads as follows:

Powers of the 70 [Joint Commissioner (Appcals) or the) Commissioner (Appeals).

251. (1) In disposing of an appeal, the Commissioner (Appeals) shall have the following powers-

(a) in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment:

[Provided that where such appeal is against an order of assessment made under section 144, he may set aside the assessment and refer the case back to the Assessing Officer for making a fresh assessment;)

(aa) in an appeal against the order of assessment in respect of which the proceeding before the Settlement Commission abates under section
245HA, he may, after taking into consideration all the material and other information produced by the assessee before, or the results of the inquiry held or evidence recorded by, the Settlement Commission, in the course of the proceeding before it and such other material as may be brought on his record, confirm, reduce, enhance or annul the assessment;

(b either to enhance or to reduce the penalty;

(c) in any other case, he may pass such orders in the appeal as he thinks fit.

(1A) In disposing of an appeal, the Joint Commissioner (Appeals) shall have the following powers-

(a) in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment,

(b) in an appeal against an order imposing a penalty, he may confirm or cancel such order or vary it so as either to enhance or to reduce the penalty;

(c) in any other case, he may pass such orders in the appeal as he thinks fit.)

(2) The 72 (Joint Commissioner (Appeals) or the] Commissioner (Appeals) 72[, as the case may be.] shall not enhance an assessment or a penalty or reduce the amount of refund unless the appellant has had a reasonable opportunity of showing cause against such enhancement or reduction.
Explanation-In disposing of an appeal, the Joint Commissioner (Appeals) or the Commissioner (Appeals), may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not raised before the - Joint Commissioner (Appeals) or the) Commissioner (Appeals), as the case may be.1 by the appellant,

The law is settled by the decision of the apex court in the case of AbhisarBuildwell and U.K. paints (supra) and the revenue's Miscellaneous application was disposed off by observing as under

4.1.1. Against the judgment dated 24.04.2023 passed by the Hon'ble Supreme Court in Abhisar Buildwell Pvt. Ltd. (impru) the

revenue filed Misc. Application before the Hon'ble Supreme Court m 26.04.2023 seeking following reliefs:

"(a) This Hon'ble Court may clarify that the waiver of limitation as stipulated in section 150(2) is to be read in respect of the date of issue of notice for reassessment under section 148 (c) if as on the date the assessment under section 153A or section 153C was passed, a notice under section 148 could have been issued as per the law then in force, then fresh proceedings for reassessment of such income not arising from the incriminating material found in search can now be initiated pursuant to the findings of this Hon'ble Court in the present appeals/application and may further clarify as follows:

(i) That the findings in para 11 and 14 would apply to all the proceedings pending in all the forums including before this Hon'ble Court.

(ii) That even though the appeals of the Revenue are dismissed in respect of assessments passed under 153A and 153C, in the absence of incriminating material found during the search, in respect of such income which was found to have escaped assessment other than through incriminating material, the assessing officers would be entitled to reassess such income in terms of Section 147/148 read with section 150.

(iii) That the Assessing Officer, may if found necessary initiate fresh proceedings within 60 days from date of disposal of this application following the procedure stipulated in section 147-151 of the Act as is in force now."

4.1.ii. The Hon'ble Supreme Court vide its order dated 12.05.2023 titled as Abhisar Buildwell Pvt. Ltd (Aupra) (CLC 32-34) dismissed the Revenue's Misc. Application by observing as under:

"2. Having gone through the averments made in the application and the prayers, we are of the opinion that the prayers sought can be said to be in the form of review which requires detail consideration at length looking into the importance of the matter. Therefore, the present application in the form of clarification is not entertained and we relegate the Revenue to file an appropriate review application for the relief sought in the present application and as and when such review application is filed the same can be heard in the open court.

3. In view of the above and without further entering into the merits of the application and/or expressing anything on merits on the prayers sought in the present application, the present application is

not entertained and we relegate the Revenue to file an appropriate review application seeking the reliefs which are sought in the present application and as and when such review application is filed the same be heard and decided and disposed of in the open court.

At the cost of repetition, we observe that as we have not entered into the merits of the present application and we relegate the Revenue to file an appropriate review application, the review application be decided and disposed of in accordance with law and on its own merits."

4.1.iii. Following the dismissal of the Revenue's Miscellaneous Application in Abhisar Buildwell Pvt. Ltd (supra), wherein the Hon'ble Supreme Court expressly relegated the Department to file a formal review petition-no such review was pursued. Instead, the CBDT issued Instruction No. 1/2023 dated 23.08.2023, which provided internal guidance to Assessing Officers regarding the course of action in cases where assessments under Section 153A/153C have failed due to lack of incriminating material.

4.1. The instruction outlines procedural steps for invoking reassesement under Section 147/148 read with Section 150. However, the nature, scope and legal force of this instruction remain subject to statutory limitations and judicial precedent, as discussed below.

We also take note of the facts that CBDT's instructions is an internal administrative directive intended solly reassessment landscape, specifically in situations where additions under Section 153A/153C were struck down due to absence of incriminating material. This administrative instructions are not binding on quasi-for operational guidance of Assessing Officers. It attempts to clarify the post-Abhisar Buildwel V Coup UCO Bank (Supra) (CLC 41-49), that CBDT circulars or instructions cannot override supplement, or expand judicial authorities like the CIT(A) It is a settled principle of law, as held by the Hon'ble Supreme Court in the scope of statutory provisions. Thus, taking shelter of Instruction No. 1/2023 as enabling or empowering appellate authorities to direct initiation of reassessment proceedings is a fundamental misapplication of the Instruction, which neither authorizes appellate intervention in reassessment matters nor vests any such power in the Id. CIT(A), Even other wise the Instruction cannot substitute the independent statutory preconditions under Sections 147/148 read with Section 149, which provides the timelines for issuance of notice of Jurisdiction is assumed for reopening a particular assessment year. Even the power vested with Id. CIT(A) are reopening. Provision of

such section must be satisfied by the Id AO at any given point of time, when the limited wherein he may

i.) confirm, or

ii) reduce, or

iii.) enhance, or

iv.) annul the assessment;

Thus, he has no power lo hint any direction that what is prescribed in law. The issue related to the now Das the commissioner of income give any direction that within a decision in the case of Murlidhar Bhagwan Das (supra) (CLC-111-128) wherein Hon'ble Supreme Court underscored that the appellate provisions (Section 33(4) of the 1922 Act wherein Hon'ble Supreme of the 1961 Act) do not confer on the appellate authorite a power to make Act, analogous to Section 250/254 of the appeal, especially as the Act provides separate, the mechanisms (like Section 34 of 1922 Act, now Section 147) to deal with escaped income. Accordingly, the Apex Court held that;

> *"It was not contended, nor was it possible to contend, that by reason of the reference to the said provisions the powers and jurisdiction conferred on the respective authorities, tribunals or courts referred to therein were enlarged or modified by a reference in the proviso or that the proviso could be read of construed as amending those sections conferring on those bodies wider or different powers or jurisdiction. Learned counsel for the department expressly disclaimed any such submission. Therefore, the scope of the proviso cannot ordinarily exceed the scope of the jurisdiction conferred on an authority under the said provisions."*

We also take note that the apex court has dealt with the provision of section 150 ice. Provision for cases where assessment is in pursuance of an order on appeal and section 149 ie. Time limit for notices under section 148 the Act. While dealing with that provision the apex court in the case of K.M. Sharma v. ITO [2002] 174 TR 210/254 ITR 772/122 Taxman 426 (SC) while dealing with the judgment of the land revenue case and hereby the reopening of the case has in detailed analysis the provision for cases where assessment is in pursuance of an order of an appeal and time limit. The relevant finding is reproduced in full because this will clarify the issue on hand with that of the case decided by apex court;

In this appeal, which is filed after obtaining special leave, the order dated 24-51996 of the Delhi High Court has been assailed. The main question involved is on the application and interpretation of the provisions of section 150 of the Income-tax Act, 1961 ('the Act').

The relevant facts necessary for deciding the legal question raised are as under:

> *1. The appellant's lands were acquired under section 6 of the Land Acquisition Act, 1894, and a award was passed on 2-12-1967 by the Chief Commissioner of Delhi granting compensation favour of the appellant. The Additional District Judge by the judgment dated 20-5-1980 held t appellant entitled to 1/32 share of the compensation awarded under various awards and the appellant was granted, total compensation in the sum of Rs. 1,18,810 approximately in the year*
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> *2. On a reference under section 18 of the Land Acquisition Act, learned Additional District Judge the Delhi to the appellant between 15-10-1992 and 26-5-1993. The amounts paid of compensation of Rs. 41,96,496 and interest in the sum of Rs. 76,84,829 upto 18-5-1992. Before making the above payments, tax was deducted at source amounting to Rs. 8,60,701.*
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> *3. Since the lands acquired were agricultural lands and were acquired prior to 1-4 tax was not leviable but tax was leviable on interest earned on the amount awarded on year to year basis.*
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> *4. The appellant through counsel sent a letter dated 17-9-1991 informing the ITO that he had received interest amount of Rs. 76.84.829 and interest accrued from year to year was assessable in each year. break up of the interest was also given in the letter. According to the appellant, no tax was leviable on interest accruing up to 31-3-1982 as assessment for it had become barred by time. The appellant, therefore, requested that necessary action be taken under section 147 of the Act to enable the appellant as assessee to file his income-tax return and pay tax accordingly*
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> *5. On 31-3-1994, the appellant was served with impugned notices under section 148 of the Act for 16 assessment years, ie, 1968-69 to 1971-72 and the assessment years 1981-82 10 1992-93.*
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> *6. The appellant, in the High Court, assailed the notices issued under section 148 for reassessment the assessment years 1968-69 to 1971-72 and for the year 1982-83 on the ground that the*

proposed reassessment for those assessment years had already become harred by time under section 149 of the Act, for which in the relevant periods maximum period of four years or seven years limitation was prescribed depending upon the quantum of liability towards tax

7. The High Court by the impugned judgment accepted the contention of the department that the provisions of section 150(1) of the Act, as amended with effect from 1-4-1989, could be resorted to for reassessment to levy tax on the increased amount of interest earned by the appellant in the relevant assessment years. It was held that bar of limitation prescribed under section 149 of the Act was not attracted by virtue of the provisions of section 150(1) because notices for such reassessments are hased on the awards passed in the land acquisition proceedings by the Court of the Additional District Judge on a reference under section 18 of the Land Acquisition Act. Upholding the validity of the assessment proceedings initiated by the department under section 148, the High Court rejected the contention of the assessee that sub-section (2) of section 150 is an Explanation to sub-section (1) and proceedings for reassessment, which had already become barred by time under section 149 before 1-4-1989, could not have been commenced on the amended provisions of sub-section (1) of section 150.

8. To appreciate the contentions advanced by the learned counsels for the parties and the decision of the High Court, it is necessary to reproduce for critical examination the provisions of section 150(1) and (2). The provisions read as under

"Provision for cases where assessment is in pursuance of an order on appeal, etc. (1) Notwithstanding anything contained in section 149, the notice under section 148 may be issued at any time for the purpose of making an assessment or reassessment or recomputation in consequence of or to give effect to any finding or direction contained in an order passed by any authority in any proceeding under this Act by way of appeal, reference or revision for by a Court in any proceeding under any other law).

[The portion bracketed and italicised above is inserted by the Direct Tax Laws (Amendment) Act, 1987 with effect from 1-4-1989].

(2) The provisions of sub-section (1) shall not apply in any case where any such assessment, reassessment or recomputation as is referred to in that sub-section relates to an assessment year in respect of which an assessment, reassessment or recomputation

could not have been made at the time the order which was the subject-matter of the appeal, reference or revision, as the case may be, was made by reason of any other provision limiting the time me recomputation may be taken." which any action for assessment, reassessment or recomputation may be taken.”

9. Section 149 prescribes maximum period of four or seven years depending upon the quantum of tax as mentioned in the said section for initiating reassessment proceedings. Section 150(1) states that the period of limitation prescribed in section 149 is not applicable, if the reassessment is proposed on the basis of any order passed by any ‘authority in any proceedings under the Act by way of appeal, reference or revision’ or ‘by Court in proceedings under any other law’ sub-section (1) of Section 150 would not be available to the departments where the period of limitation or such assessment or reassessment has expired at the time it is proposed to be reopened. In sub-section (1) of section 150, by the Direct Tax Laws (Amendment) Act, 1987 with effect from 1-4-1989, the words or by a Court in any proceeding under any other law’ were inserted which are shown in bracket with underline in the section reproduced above.

10. The main question that has been raised on behalf of the learned counsels appearing for the parties is whether the provisions of sub-section (1) of section 150 as amended can be availed for reopening assessments, which have attained finality and could not be reopened due to bar of limitation, that was attracted at the relevant time to the proposed reassessment proceedings under the provisions of section 149,

11. The submission made on behalf of the appellant is that neither the provisions of sub-section (1) nor sub-section (2) can be read as giving more than intended operation to the said provision. The provisions, it is argued, do not permit the authorities to renpen assessments, which have become final and reassessment of which had become barred by time before 1-4-1989 when section 150(1) was amended. Reliance is placed on the decision of this Court in SS. Gadgil v. Lal & Co. [1964] 53 ITR 231.

12. The learned counsel appearing on behalf of the department has made an effort to persuade this Court to accept his construction of the provisions of section 150(1) and (2). It is argued that it is for the specific purpose of assessing income, which might accrue on the basis of any decision of any Court in any proceeding in any other law, that the provision has been amended to tin bar of limitation for reassessment.

13. Fiscal statute, more particularly a provision such as the present one regulating period of limitation must receive strict construction. The law of limitation is intended to give certainty and finality to legal proceedings and to avoid exposure to risk of litigation to litigant for indefinite period on future unforeseen events. Proceedings, which have attained finality under existing law due to har of limitation cannot be held to be open for revival unless the amended provision is clearly given retrospective operation so as to allow upsetting of proceedings, which had already been concluded and attained finality. The amendment to sub-section (1) of section 150 is not expressed to be retrospective and, therefore, has to be held as only prospective. The amendment made to sub-section (1) of section 150 which intends to lift embargo of period of limitation under section 149 to enable authorities to reopen assessments not only on the basis of orders passed in proceedings under the Act but also on order of a Court in any proceedings under any law, has to be applied prospectively on or after 1-4-1989 when the said amendment was introduced to sub-section (1). The provision in sub-section (1), therefore, can have only prospective operation to assessments, which have not become final due to expiry of period of limitation prescribed for assessment under section 149.

14. To hold that the amendment to sub-section (1) would enable the authorities to reopen assessments, which had already attained finality due to bar of limitation prescribed under section 149 as applicable prior to 1-4-1989, would amount to give sub-section (1) a retrospective operation which is neither expressly nor impliedly intended by the amended sub-section.

15. On behalf of the assessee before the High Court and in this Court reliance has been placed on the provisions contained in sub-section (2) of section 150. It is submitted that the provision contained in sub-section (2) of section 150 is in the nature of clarification or Explanation to sub-section (1). Sub-section (2) makes it clear that the embargo of period of limitation lifted under sub-section (1) for proposed reassessments based on order in proceedings under appeal, reference or revision as the case may be would not apply to assessments which have attained finality due to bar of limitation applicable at the relevant time.

16. The High Court rejected the above contention of the assessee on the ground that on the amendment introduced with effect from 1-4-1989 in sub-section (1), which enables reopening of assessment based on any order of Court in any proceedings in any law', there is no corresponding amendment made in subsection (2) of section 150 to bar reassessment based on order of court passed in any proceedings in any law in cases where

prescribed period of limitation for reassessment had already expired.

17. We do not find that the above reasoning of the High Court is sound. The plain language of sub-section (2) of section 150 clearly restricts application of subsection (1) to enable the authority to reopen assessments which have not already become final on the expiry of prescribed period of limitation under section 149. As is sought to be done by the High Court, sub-section (2) of section 150 cannot be held applicable only to reassessments based on orders 'in proceedings under the Act and not to orders of Court 'in proceedings under any other law. Such an interpretation would make the whole provision under section 150 discriminatory in its application to assessments sought to be reopened on the basis of orders under the Act and other assessments proposed to be reopened on the basis of orders under any other law. Interpretation, which creates such unjust and discriminatory situation, has to be avoided. We do not find that sub-section (2) of section 150 has that result. Sub-section (2) intends to insulate all proceedings of assessments, which have attained finality due to the then existing bar of limitation. To achieve the desired result it was not necessary to make any amendment in sub-section (2) corresponding to sub-section (1), as is the reasoning adopted by the High Court.

18. Sub-section (2) aims at putting embargo on reopening assessments, which have attained finality on expiry of prescribed period of limitation. Sub-section (2) in putting such embargo refers to whole of sub-section (1) meaning thereby to insulate all assessments, which have become final and may have been found liable to reassessments or recomputation either on the basis of orders in proceedings under the Act or orders of courts passed under any other law. The High Court, therefore, was in error in not reading whole of amended sub-section (1) into sub-section (2) and coming to the conclusion that reassessment proposed on the basis of order of the court in proceedings under the Land Acquisition Act could be commenced even though the original assessments for the relevant years in question have attained finality on expiry of period of limitation under section 149. On a combined reading of sub-section (1) as amended with effect from 1-4-1989 and sub-section (2) of section 150 as it stands, in our view, a fair and just interpretation would be that the authority under the Act has been empowered only to reopen assessments, which have not already been closed and attained finality due to the operation of the bar of limitation under section 149.

19. This Court took similar view in the case of S.S. Gadgil (supra) in somewhat comparable situation arising from the retrospective operation given to section 34(1) of the Indian Income-tax Act, 1922 as amended with retrospective effect from 1-4-1956 by the Finance Act, 1956. In the case of S.S. Gadgil (supra) admittedly under clause (iii) of the proviso to section 34(1), as it then stood, a notice of assessment or reassessment could not be issued against a person deemed to be an agent of a non-resident under section 43, after the expiry of one year from the end of the year of assessment. The section was amended by section 18 of the Finance Act, 1956, extending this period of limitation to two years from the end of the assessment year. The amendment was given retrospective effect from 1-4-1956. On 12-3-1957, the ITO issued a notice calling upon the assessee to show cause as to why, in respect of the assessment year 1954-55, the assessee should not be treated as an agent under section 43 in respect of certain non-residents. The case of the assessee, inter alia, was that the proposed action was barred by limitation as right to commence proceedings of assessment against the assessee as an agent of non-resident for the assessment year 1954-55 ended on 31-3-1956, under the Act before it was amended in 1956, This Court in the case of S.S. Gadgil (supra) accepted the contention of the assessee and held as under:

"... The Legislature has given to section 18 of the Finance Act, 1956, only a limited retrospective operation, ie, up to April 1, 1956 only. That provision must be read subject to the rule that in the absence of an express provision or clear implication, the Legislature does not intend to attribute to the amending provision provision a greater retrospectivity than is expressly mentioned, nor to authorise the Incometax Officer to provided become barred." (p. 240) commence proceedings which before the new Act came into force had by the expiry of the period

20. On a proper construction of the provisions of section 150(1) and the effect of its operation from 1-4-1989, we are clearly of the opinion that the provisions cannot be given retrospective effect prior to 1-4-1989 for assessments which have already become final due to bar of limitation prior to 1-4-1989, Taxing provision imposing a liability is governed by normal presumption that it is not retrospective and settled principle of law is that the law to be applied is that which is in force in the assessment year unless otherwise provided expressly or by necessary implication. Even a procedural provision cannot in the absence of clear contrary intendment expressed therein be given greater retrospectivity than is expressly mentioned so as to enable the authorities to affect finality of tax assessments or to open up liabilities, which

have become barred by lapse of time. Our conclusion, therefore, is that sub-section (1) of section 150, as amended with effect from 1-41989, docs not enable the authorities to reopen assessments, which have become final due to bar of limitation prior to 1-4-1989 and this position is applicable equally to reassessments proposed on the basis of orders passed under the Act or under any other law.

21. As a result of the discussion aforesaid, the appeal is allowed. The judgment of the Delhi High Court dated 24-5-1996 is hereby set aside. As prayed in the petition, the impugned notices issued by the respondent of the Income-tax Department under sections 148 and 142 against the appellant for the assessment years 1968-69 to 1971-72 and 1981-82 are hereby quashed. The appeal stands allowed with costs.

The above view is also get support by a decision of Nagpur Bench of this ITAT in the case of M.B. Traders v. Assit. CIT [2011] 9 ITR(T) 453/[2010] 132 TTJ 490 (Nagpur) wherein the coordinate bench held that;

9. After an in-depth study of the entire case record, on a patient hearing of both the sides and after reading the case law cited at length, our observations and findings on the matter are as follows.

Before giving our observation and finding, it has been deemed proper to quote ss. 150 and 151 as it is, as under:

"150. (1) Notwithstanding anything contained in s. 149 the notice under s. 148 may be issued at any time of the purpose of making an assessment or reassessment or recomputation in consequence of or to give effect to any finding or direction contained in an order passed by any authority in any proceeding under this Act by way of appeal, reference or revision or by a Court in any proceeding under any other law.

(2) The provisions of sub-s. (1) shall not apply in any case where any such assessment, reassessment or recomputation as is referred to in that sub-section relates to an assessment year in respect of which an assessment, reassessment or recomputation could not have been made at the lime the order which was the subject-matter of the appeal, reference or revision, as the case may be, was made by reason of any other provision limiting the time within which any action for assessment, reassessment or recomputation may be taken.

151. (1) In a case where an assessment under sub-s. (3) of s. 143 or s. 147 has been made for relevant assessment year, no notice shall be issued under s. 148 by an AO, who is below the rank of Asstt. CIT or Dy. CIT unless the Jt. CIT is satisfied on the reasons recorded by such AO that it is a fit case for the issue of such notice.

Provided that, after the expiry of four years from the end of the relevant assessment year, no such notice shall be issued unless the Chief CIT or CIT is satisfied, on the reasons recorded by the AO aforesaid, that it is a fit case for the issue of such notice.

(2) In a case other than a case falling under sub-s. (1), no notice shall he issued under s. 148 by an AO, who is below the rank of Jt. CIT, after the expiry of four years from the end of the relevant assessment year, unless the Jt. CIT is satisfied, on the reasons recorded by such AO, that it is a fit case for the issue of such notice.

Explanation: For the removal of doubts, it is hereby declared that the JL. CIT, the CIT or the Chief CIT, as the case may be, being satisfied on the reasons recorded by the AO about fitness of a case for the issue of notice under s. 148, need not issue such notice himself."

of Sec, 149 deals as quoted above with regard to time-limit for notice. Sec. 150 deals with regard to provision for cases where assessment is in pursuance of an order on appeal. In our considered view there is no bar for issuing notice under s. 148 by the AO on the direction of the first appellate authority. At the same time, reassessment proceeding must be based on the belief of the AO and not of the CIT of appellate authority or that of the Tribunal as had been meant and interpreted from a perusal of s. 147 of the IT Act. The direction of higher authority should not be interpreted as a blanket direction by the AO But that should be accompanied by the direct satisfaction of the AO with regard to the escapement income. The appellate authorities or higher authorities cannot interfere on this power of the AO. It means the direction of the higher authorities and that of the appellate authorities must be acted upon by the AO with utter satisfaction. Taking initiation of reassessment proceeding without satisfaction of the AO, simply on the basis of the blanket direction, will not justify the action of initiation of reopening proceeding. In this particular case as has been rightly pointed out by the learned Authorised Representative from p. 13 of the paper book filed, the AO has simply acted upon, te, initiated reopening proceeding on the basis of the direction of the CIT(A) and has totally ignored his

part of the job te, his satisfaction, as is evident from p. 13 of the paper book filed by the learned counsel which is quoted below for better appraisal of facts:

"Assessee filed the return of income of Rs. 39,720 on 25th Jan., 1993. Assessment under s. 143(3) was completed on a total income of Rs. 15,55,579 on 29th March, 1996 making addition of Rs. 15,15.859.

The order under s. 143(3) was contested before CIT(A) who cancelled the order of the AO and directed as under:

'It is held that assessment proceedings are bad in law and hence cancelled. The AO should take remedial action under s. 147 or any other provisions of the Act to tax the income escaping assessment.

Accordingly notice under s. 148 of the IT Act, 1961 was issued and sent by RPAD on 27th March, 1998, but assessee denied about the receipt of notice vide his letter dt. 12th Jan., 1999.

Considering the legal aspect at the initial stage and considering the large amount of income to be taxed, an approval under s. 147 may kindly be granted.

Assit. CIT,

Circle-1(3), Nagpur."

10. Direction of the higher authority including that of the CIT(A) will not confer power to assume jurisdiction to the AO to initiate reassessment proceeding. With this considered view, on a total in-depth study of the case laws and considering the rival submissions, we allow the assessee's appeal and cancel the order of the CIT(A). Before parting with the order it is to be pointed out that the notice issued under s. 143(2) was also barred by time in this case and since the root of the matter had been dealt at length as above, we did not feel it proper to again deal with ground No. 5 in detail. Howsoever it is treated to have been considered and decided in favour of the assessee.

11. In the result, the assessee's appeal is allowed.

Even the co-ordinate bench of Kolkata vide dealing with the appeal of the revenue in the case of Sri Biswajit Chatterjee (supra) has also held that CIT(A) has not power under the provision of law for giving any direction to AO for re-opening of

assessment". Respectfully following the finding as discussed herein above we are of the considered view that Id. CIT(A) will not confer power to assume jurisdiction to the AO to initiate reassessment proceeding. Even otherwise the apex court has also while dealing with the provision of section 147/148 of the Act in the case of Parashuram Pottery Works Co. Ltd. v. ITO [1977] 106 ITR 1 (SC) held that;

"According to section 148 of the Act of 1961, before making the assessment, reassessment or recomputation under section 147, the Income-tax Officer shall serve on the assessee a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 139; and the provisions of the Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section. The Income-tax Officer has also, before issuing such notice, to record his reasons for doing so. Section 149 prescribes the time limit for the notice. The time limit in ag falling under clause (1) of sub 149 prescribes, with which we are not concemed, shall be years from the end of the utersection (1) of section 149ncaves falling under clause (b) of section however, the time limit for the notice is four years from the end of the relevant assessment yeaf be Ad (a) of section 147 of the Act of 1961 corresponds to clause (ur) of sub-section (1) of section 34 of the A of 1922. The language of clause (a) of section 147 read with sections 148 and 149 of the Act of 1961 as also the corresponding provisions of the Act of 1922 makes it plain that two conditions have to be satisfied before the Income-tax Officer acquires jurisdiction to issue notice under section 148 in respet of an assessment beyond the period of four years but within a period of eight years from the end of the relevant year, viz., (1) the Income-tax Officer must have reason to believe that income chargeable to tax has escaped assessment, and (ii) he must have reason to believe that such income has escaped assessment by reason of the omission or failure on the part of the assessee (a) to make a return under section 139 for the assessment year to the Income-tax Officer, or (b) to disclose fully and truly material facts necessary for his assessment for that year. Both these conditions must co-exist to confer jurisdiction on the Income tax Officer. It is also imperative for the Income-tax Officer to record his reasons before initiating proceedings as required by section 148(2). Another requirement is that before notice is issued after the expiry of four years from the end of the relevant assessment years, the Commissioner should be satisfied on the reasons recorded by the Income-tax Officer that it is a fit case for the issue of such notice. The duty which is cast upon the assessee is to make a true and full disclosure of the primary facts at the time of the original assessment.

Production before the Income-tax Officer of the account books or other evidence from which material evidence could with due diligence have been discovered by the Income-tax Officer will not necessarily amount to disclosure contemplated by law. The duty of the assessee in any case does not extend beyond making a true and full disclosure of primary facts. Once he has done that his duty ends. It is for the Income-tax Officer to draw the correct inference from the primary facts. It is no responsibility of the assessee to advise the Income-tax Officer with regard to the inference which he should draw from the primary facts. If an Income-tax Officer draws an inference which appears subsequently to be erroneous, mere change of opinion with regard to that inference would not justify initiation of action for reopening assessments: See Income-tax Officer v. Lakhmani Mewal Das [1976] 103 ITR 437 (SC).

The words "omission or failure to disclose fully and truly all material facts necessary for his assessment for that year" postulate a duty on the assessee to disclose fully and truly all material facts necessary for his assessment. What facts are material and necessary for assessment will differ from case to case, In every assessment proceeding, the assessing authority will, for the purpose of computing or determining the proper tax due from an assessee, require to know all the facts which help him in coming to the correct conclusion. From the primary facts in his possession, whether on disclosure by the assessee, or discovered by him on the basis of the facts disclosed, or otherwise, the assessing authority has to draw inference as regards certain other facts; and ultimately from the primary facts and the further facts inferred from them, the authority has to draw the proper legal inferences, and ascertain on a correct interpretation of the taxing enactment, the proper tax leviable: See Calcutta Discount Co. v. Income-tax Officer [1961] 41 ITR 191, 201 (SC). As further observed in that case:

"Does the duty, however, extend beyond the full and truthful disclosure of all primary facts? In our opinion, the answer to this question must be in the negative, Once all the primary facts are before the assessing authority, he requires no further assistance by way of disclosure. It is for him to decide what inferences of facts can be reasonably drawn and what legal inferences have ultimately to be drawn. It is not for somebody else-far less the assessee to tell the assessing authority what inferences, whether of facts or law, should be drawn. Indeed, when it is remembered that people often differ as regards what inferences should be drawn from given facts, it will be meaningless to demand that

the assessee must disclose what inferences-whether of facts or law-he would draw from the primary facts."

Keeping in view the principles enunciated above, we may deal with the contention advanced on behalf of the appellant that the present is not a case in which action could be taken under section 147(a) of the Act of 1961. This contention has been controverted by the learned counsel for the respondent who has canvassed for the correctness of the view taken by the High Court in the judgment under appeal.

It would appear from what has been discussed above that one of the essential requisites for proceeding under clause (a) of section 147 of the Act of 1961 is that the income chargeable to tax should escape assessment because of the omission or failure on the part of the assessee to disclose fully and truly all material facts necessary for his assessment. The present is not a case where the assessee had omitted or failed to file the retum. Question then arises as to what has been omission or failure on the part of the assessee to make a full and true disclosure. There is nothing before us to show that in the return filed by the assessee-appellant the particulars given were not correct. Form C under rule 19 of the Indian Income-tax Rules, 1922, at the relevant time gives the form of return which had to be filed by the companies. Part V of that form deals with depreciation. The said part requires a number of columns to be filled in by the assessee, It has not been suggested that any of the information furnished or any of the particulars given in those columns by the appellant-company were factually incorrect. Nor is it the case of the revenue that the appellant failed to furnish the particulars required to be inserted in those columns. Indeed, the copy of the return has not been filed and consequently no argument on that score could be or has been addressed before us. Part V of the form no doubt requires the assessee to state the written down value in column No. (2). Such written down value had to be specified without taking into account the initial depreciation because such depreciation in terms of clause (vi) of section 10(2) of the Act of 1922 could not be deducted in determining the written down value for the purpose of that clause. The case of the appellant is that in determining the amount of depreciation at the time of the original assessment for the two assessment years in question, the Income-tax Officer relied upon the written down value of the various capital assets as obtaining in the records of the department. This stand has not been controverted. When an Income-tax Officer relies upon his own records for determining the amount of depreciation and makes a mistake in doing so, we fail to understand as to how responsibility for that mistake can be ascribed to an omission or

failure on the part of the assessee. It also cannot be disputed that initial depreciation in respect of items of capital assets in the shape of new machinery, plant and building installed or erected after the 31st day of March, 1945, and before the 1st day of April. 1956, is normally claimed and allowed. It seems that the Income-tax Officer in working the figures of depreciation for certain items of capital assets lost sight of the fact that the aggregate of the depreciation, including the initial depreciation, allowed under different heads could not exceed the original cost to the assessee of those items of capital assets. The appellant cannot be held liable because of this remissness on the part of the Income-tax Officer in not applying the law contained in clause (c) of the proviso to section 10(2)(v) of the Act of 1922. As observed by Shah J. in Commissioner of Income-taxv. Bhanji Lavji[1971] 79 ITR 582 (SC), section 34(1)(a) of the Act of 1922 (corresponding to section 147(a) of the Act of 1961) does not cast a duty upon the assessee to instruct the Income-tax Officer on questions of law.

It may also he mentioned that so far as the assessment for the assessment year 1957-58 is concerned, the assessment order was once rectified and at another time revised. Despite such rectification and revision, the above mistake in the calculation of the depreciation remained undetected. It was only in October, 1965, that the Income-tax Officer realised that higher amount of depreciation had been allowed to the appellant than was actually due. A letter to that effect was consequently sent to the assessee on October 5, 1965. It was, however, nowhere mentioned in that letter that the higher amount of depreciation had been allowed and the income as such had escaped assessment because of the omission or failure on the part of the assessee to disclose truly and fully all material facts. Reference to such omission or failure came only in a subsequent communication. The submission made on behalf of the appellant is not without force that reference was made to the assessee's omission or failure to disclose truly and fully all material facts because it was realised that after the expiry of four years from the end of the relevant assessment year, no action for reopening of assessment could be taken on the basis of detection of mistake alone unless there was also an allegation that the income had escaped assessment because of the omission or failure of the appellant to disclose fully and truly material facts. Looking to all the facts, we are of the opinion that it cannot be said that the excess depreciation was allowed to the appellant-company and its income as such escaped assessment because of its omission or failure to disclose fully and truly all material facts.

It has been said that the taxes are the price that we pay for civilization. If so, it is essential that those who are entrusted with the task of calculating and realising that price should familiarise themselves with the relevant provisions and become well-versed with the law on the subject. Any remissness on their part can only be at the cost of the national exchequer and must necessarily result in loss of revenue. At the same time, we have to bear in mind that the policy of law is that there must be a point of finality in all legal proceedings, that stale issues should not be reactivated beyond a particular stage and that lapse of time must induce repose in and set at rest judicial and quasi-judicial controversies as it must in other spheres of human activity, So far as the income-tax assessment orders are concerned, they cannot be reopened on the score of income escaping assessment under section 147 of the Act of 1961 after the expiry of four years from the end of the assessment year unless there be omission or failure on the part of the assessee to disclose fully and truly all material facts necessary for the assessment. As already mentioned, this cannot be said in the present case. The appeal is consequently allowed, the judgment of the High Court is set aside and the impugned notices are quashed."

Thus, what is not permitted directly cannot be permitted indirectly and therefore, the ld. CITIA) cannot broaden the scope of the appeal decision to "advise" or "compel" another round of litigation again and again of finality in all legal proceedings, that stale issues should not be reactivated beyond a particular stage. Thus, and as held by the apex court that we have to bear in mind that the policy of law is that there must be a point looking to the provision of the law, decided case and facts of the present case we are of the considered view that Id. CIT(A) was tasked with deciding whether the addition under Section 153A was sustainable given the specific facts and circumstance of the case. Ld. CIT(A) rightfully found it was not (for want of incriminating material) and deleted it. At that point, Id. CIT(A)'s authority ended. Ld. CITIA) should have simply allowed the appeal on that issue. By proceeding to direct the AD to consider re-opening under Section 147, the id CIT(A) acted ultra vires and thereby we allow the cross objection of the assessee.

In the result, the appeals of the revenue in ITA No. 301/JP/2025 stands dismissed and the cross objection in CO No. 02/JP/2025 of the assessee is allowed.

14. The facts of the case in ITA No. 288 to 303/IP/2025 and CO Nos. 03 to 17/JP/2025 are similar to the case in ITA No. 301/JP/2025 and CO No. 02/JP/2025 and we have heard both

the parties and persuaded the materials available on record. The bench noticed that the issues raised by the revenue and the assessee in this appeal No, ITA No. 288 to 303/JP/2025 and CO Nos. 03 to 17/JP/2025 are equally similar on set of facts and grounds as that of with the appeal of the revenue in ITA No. 301/JP/2025 and cross objection to the assessee in CO No. 02/JP/2025. Therefore, it is not imperative to repeat the facts and various grounds raised by the revenue and arguments of both the parties. Hence, the bench feels that the decision taken by us in ITA No. 301/JP/2025 and CO No. 02/JP/2025 for Assessment Year 2016-17 shall apply mutatis mutandis in ITA Nos. 288 to 303/JP/2025 and CO Nos. 03 to 17/JP/2025 for the Assessment Years 2014-15 & 2016-17.

In the result, the appeals of the revenue stands dismissed, and the cross objection of the assessee are allowed."

6. The above decision squarely applies to the facts of the assessee's case. Respectfully following the said decision we reverse the findings of the Ld. CIT(A) rendered in para 4.9 of the order of the Ld. CIT(A).

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7. Coming to the appeal for the A.Y.2016-17 which is identical to the appeal for the A.Y.2015-16 we hold that the decision taken therein shall apply mutatis mutandis for the A.Y.2016-17 and accordingly we reverse the findings of the Ld.CIT(A) rendered in para 4.9 of the order of the Ld. CIT(A).

8. In the result, the appeals of the assessee are allowed.

Order pronounced in the open court on 09.01.2026.

Sd/-	Sd/-
[M. BALAGANESH]	**[C.N. PRASAD]**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Dated:09 .01.2026

*NEHA , Sr.P.S.**