

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES 'F': NEW DELHI.**

**BEFORE SHRIS.RIFAUR RAHMAN, ACCOUNTANT MEMBER  
and  
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

**ITA No.3657/Del/2025  
(Assessment Year: 2013-14)**

Sunil Kumar Singh,  
S-172B, Pandav Nagar,  
Laxmi Nagar,  
Delhi – 110 092.

vs.

Income Tax Officer,  
Ward 60 (5), Delhi.

**(PAN : BBFPS2668B)**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Sumit Lal Chandani, Advocate  
REVENUE BY : Ms. Harpreet Kaur Hansra, Sr. DR

Date of Hearing : 19.01.2025  
Date of Order : 28.01.2026

**ORDER**

**PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER :**

1. The assessee has filed appeal against the order of the Learned Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi [“Ld. CIT(A)”, for short] dated 03.03.2025 for the Assessment Year 2013-14 raising following grounds of appeal :-

1. That the notice issued under Section 148 of the Income Tax Act, 1961 (‘the Act’) and the consequential proceedings are illegal, bad in law, without jurisdiction and barred by time limitation.
2. That the Commissioner of Income Tax (Appeals) [‘CIT(A)’] has erred in not quashing the reassessment proceedings, which are ex facie bad in law and in violation of the settled judicial

pronouncements, and has further erred in upholding the additions/disallowances made by the Assessing Officer ('AO').

3. That the assessment order passed under Section 147 r.w.s. 144 of the Act by the AO are illegal, bad in law, without jurisdiction, barred by time limitation, and not in accordance with the provisions of the Act.
  4. That the reasonable opportunity of being heard was not given to the Appellant by the AO/CIT(A), and the orders passed by the AO/CIT(A) are in gross violation of principles of natural justice.
  5. That the CIT(A) has failed to appreciate the fact that the notice under Section 148 of the Act had not been served on the Appellant. Therefore, the subsequent assessment order passed is liable to be quashed.
  6. That on the facts and circumstances of the case, the prior approval taken under Section 151 of the Act for issuing the notice under Section 148 of the Act is mechanical in nature and without any application of mind. Therefore, the subsequent assessment order passed is liable to be quashed.
  7. That on the facts and circumstances of the case, the AO has erred in making the addition of Rs. 2,63,77,715/- under Section 68 of the Act, allegedly on account of unexplained expenditure, and the CIT(A) has erred in upholding the same.
  8. That on the facts and circumstances of the case, the AO has wrongly invoked the provision of Section 115BBE of the Act, and the CIT(A) has erred in upholding the same.
  9. That the additions/disallowances made by the Assessing Officer are unjust, illegal, arbitrary, bad in law, highly excessive, and based on surmise or conjecture.
  10. That on the facts and circumstances of the case, the material available on record has not been properly considered and judicially interpreted by the AO/CIT(A), and the same has been wrongly ignored.”
2. At the time of hearing, Id. AR of the assessee submitted his submissions on the legal issue and submitted that this issue is squarely covered by various decisions of Hon'ble Courts and the coordinate Benches of the ITAT, especially relied on the decision of

Hon'ble Apex Court in the case of UOI vs. Rajeev Bansal 2024 (10) TMI 264. Ld. AR further submitted the charts showing the key factor and computation of limitation as per decision of UOI vs. Rajeev Bansal (supra) as under :-

#### A. KEY FACTS

S. No.	Particulars	Date	Relevant pgs. of paper books
1.	Notice issued under section 148 (old regime)	30.06.2021	2
2.	Letter/Notice communicating information pursuant to SC decision in Ashish Agarwal – reply to be filed by 30.05.2022	13.05.2022	3-7
3.	Letter/Notice issued in continuation of the notice issued on 13.05.2022- reply to be filed by 18.06.2022	13.06.2022	8
4.	Reply filed by Assessee	-	
5.	Order u/s 148A(d)	18.07.2022	9-12
6.	Notice issued u/s 148- Sanction obtained from PCCIT	18.07.2022	13
7.	Copy of letter intimating the DIN for notice under section 148 of the Act issued on 29.06.2022	18.07.2022	14

#### B. COMPUTATION OF LIMITATION AS PER DECISION OF UOI VS. RAJEEV BANSAL:

S. No.			SC Paras
1.	Assessment Year	2013-14	
2.	Period of limitation u/s 149 [3 years or 6 years]	6 years	
3.	Original Period of Limitation u/s 149	31.03.2020	
4.	Extended period of limitation as per IT Act read with TOLA	30.06.2021	<b>Paras 65-69</b>
5.	Sanction to be obtained u/s 151 till 30.06.2021 [within 6 years]	PCIT	
6.	Date of original notice u/s 148 – deemed	30.06.2021	

	SCN u/s 148A (b)		
7.	Time surviving from the date of issuance of deemed SCN till the expiry of the period as extended by TOLA [from 30.06.2021 till 30.06.2021] Surviving time period available vide virtue of applicability of the fourth proviso to Section 149 of the Act	7 days	<b>Paras 109-113</b>
8.	Period of deemed stay to be excluded as per 3rd proviso to section 149 [Date of Original 148 till date allowed to file a reply to assessee]	30.06.2021 to 30.05.2022/ 18.06.2022	<b>Paras 105-107</b>
9.	Last date for issuing notice u/s 148 [i.e., 30.05.2022+ 7 days]	25.06.2022	<b>Para 77</b>
10.	Actual date of issuance of notice u/s 148	18.07.2022	
11.	<b>Notice u/s 148 issued under the new regime is within time period</b>	No, it is barred by time limitation	<b>Para 77</b>

5. In this regard, ld. AR of the assessee relied on various case laws and filed case law compilation. Accordingly, in view of his above submissions and relying on various case laws, he pleaded that the appeal of the assessee be allowed.
6. On the other hand, ld. DR of the Revenue objected to the submissions made by the ld. AR and heavily relied on the findings of the lower authorities.
7. Considered the rival submissions and material placed on record. We observed that the issue is squarely covered by the decision of Hon'ble Supreme Court in the case of PCIT vs Rajeev Bansal (supra) in favour of the assessee and the Hon'ble Supreme Court held as under :-

**“111.** The clock started ticking for the Revenue only after it received the response of the assesses to the show causes notices. After the receipt of

the reply, the assessing officer had to perform the following responsibilities: (i) consider the reply of the assessee under section 149A(c); (ii) take a decision under section 149A(d) based on the available material and the reply of the assessee; and (iii) issue a notice under section 148 if it was a fit case for reassessment. Once the clock started ticking, the assessing officer was required to complete these procedures within the surviving time limit. The surviving time limit, as prescribed under the Income-tax Act read with TOLA, was available to the assessing officers to issue the reassessment notices under section 148 of the new regime.

**112.** Let us take the instance of a notice issued on 1 May 2021 under the old regime for a relevant assessment year. Because of the legal fiction, the deemed show cause notices will also come into effect from 1 May 2021. After accounting for all the exclusions, the assessing officer will have sixty-one days [days between 1 May 2021 and 30 June 2021] to issue a notice under section 148 of the new regime. This time starts ticking for the assessing officer after receiving the response of the assessee. In this instance, if the assessee submits the response on 18 June 2022, the assessing officer will have sixty-one days from 18 June 2022 to issue a reassessment notice under section 148 of the new regime. Thus, in this illustration, the time limit for issuance of a notice under section 148 of the new regime will end on 18 August 2022.”

8. Further we observe that Hon’ble Gujarat High Court (supra) in Southern Gujarat Chamber Trade and Industrial Development Centre vs ITO (Gujarat HC) has decided the same issue as under :-

“Section [149](#), read with sections [148](#) and [148A](#), of the Income-tax Act, 1961 - Income escaping assessment - Time limit for issuance of notice (TOLA) - Assessment year 2016-2017 - Assessing Officer issued impugned notice under section 148 on 18-7-2022 for relevant assessment year - Whether in view of decision of Supreme Court in case of Rajeev Bansal [\[2024\] 167 taxmann.com 70/301 Taxman 238/469 ITR 46 \(SC\)](#), considering period of limitation from date of issuance of notice under section 148 read with TOLA upto 30-6-2021, limitation for issuance of impugned notice under section 148 would be 17-6-2022 and thus, impugned notice dated 18-7-2022 having been issued beyond 'surviving time' would be invalid - Held, yes [Paras 7 and 9] [In favour of assessee]”

9. We also observe that ITAT, Mumbai Bench in DCIT vs Prasad Shetty

(ITAT Mumbai) (supra) has decided the issue as under :-

“Section [149](#), read with sections [148](#) and [148A](#), of the Income-tax Act, 1961 - Income escaping assessment - Time limit for issuance of notice - Assessment year 2017-18 - Assessee filed its return of income for assessment year 2017-18 - Assessing Officer issued a notice under section 148 dated 28-6-2021 - Thereafter, Assessing Officer issued a show cause notice under section 148A(b) dated 24-5-2022 - Since assessee did not file any reply within due date given, i.e., 7-6-2022, Assessing Officer passed an order under section 148A(d) dated 28-7-2022 and issued a notice under section 148 dated 28-7-2022 - It was noted that original notice under section 148 was issued on 28-6-2021 and therefore, last date on which notice could have been issued under old regime was up till 30-6-2021 and thus, surviving time as laid down by Supreme Court in case of Union of India v. Rajeev Bansal [\[2024\] 167 taxmann.com 70/301 Taxman 238/469 ITR 46 \(SC\)](#) was only two days which was to be calculated from 28-6-2021 to 30-6-2021 - Whether therefore, only two days would be available to Assessing Officer from time granted to assessee to give reply to notice that was between 7-6-2022 to 9-6-2022 - Held, yes - Whether thus, he was required to pass order under section 148A(d) and issue notice under section 148 on or before 9-6-2022 and accordingly, impugned notice under section 148 dated 28-7-2022 did not fit in 'surviving time limit' as laid down by Supreme Court in case Rajeev Bansal (supra) - Held, yes - Whether therefore, notice under section 148 dated 28-7-2022 was barred by limitation, and was to be quashed - Held, yes [Para 12] [In favour of assessee]”

10. Respectfully following the aforesaid decisions, we are inclined to allow the grounds taken by the assessee and accordingly allow the appeal filed by the assessee.
11. In the result, the appeal filed by the assessee is allowed.

**Order pronounced in the open court on this 28<sup>th</sup> day of January, 2025.**

**Sd/-  
(VIMAL KUMAR)  
JUDICIAL MEMBER**

**sd/-  
(S.RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

**Dated: 28.01.2026/TS**

Copy forwarded to:

1. Appellant
2. Assessee
3. CIT
4. CIT(Appeals).
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI