

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "E", MUMBAI

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER

I.T.A No.1932/Mum/2025 A.Y. : 2014-15)

I.T.A. No.1933/Mum/2025 A.Y. : 2015-16)

Income Tax Officer Room No.613, 6 th Floor Piramal Chambers, Maharashtra-400012	vs	Ketan Babulal Jain Flat No.17 4 th Floor, 87 Sindhu Bldg Netaji Subhash Chandra Bose Road Marine Drive, Maharashtra-400002 PAN : AFXPJ6380E
APPELLANT		RESPONDENT

C.O.117/Mum/2025

(Arising out of I.T.A No.1932/Mum/2025 A.Y. : 2014-15)

C.O.118/Mum/2025

(Arising out of I.T.A. No.1933/Mum/2025 A.Y. : 2015-16)

Ketan Babulal Jain Flat No.17 4 th Floor 87 Sindhu Bldg, Netaji Subhash Chandra Bose Road, Marine Drive, Maharashtra-400002 PAN : AFXPJ6380E	vs	Income Tax Officer Room No.613 6 th Floor Piramal Chambers, Maharashtra-400012
APPELLANT		RESPONDENT

Assessee by : Shri Bhupendra Shah
Revenue by : Shri Hemanshu Joshi (SR DR)

Date of hearing : 20/01/2026
Date of pronouncement : 22/01/2026

ORDER

Per Anikesh Banerjee (JM):

The instant appeals of the revenue and cross objections of the assessee filed against the order of the NFAC, Delhi [for brevity, 'Ld.CIT(A)'] order passed under section 250 of the Income-tax Act, 1961 (for brevity, 'the Act') order was passed on 25.01.2025 for Assessment Year 2014-15 and for the Assessment Year 2015-16, date of order 29/01/2025. The impugned orders emanated from the order of the Learned Assessment Unit, Income-tax Department (for brevity, 'the Ld.AO') order passed u/s 147 r.w.s. 144B of the Act, date of order 27/05/2023 for AY 2014-15 and on dated 08.05.2023 for AY 2015-16.

2. All the appeals have same nature of fact and arise out from the common issue. So both the appeals are taken together, heard together and disposed of by a common order. For convenience **AY 2014-15** is taken as lead case.

3. The Ld. AR stated that the cross objection was filed by the assessee with a delay for 17 days. The assessee filed a notarized affidavit duly executed on 26.08.2025 the original copy of the said affidavit for condoning the delay is placed on record. The Ld. DR had not made any objection against the submission of the assessee. Accordingly, the marginal delay for 17 days is condoned and both the cross objections are taken for adjudication

4. The brief facts of the case are that the assessee's case was reopened under section 148 of the Act. The addition was made related to long term capital gain (LTCG) for sale of shares of Excel Castronics Limited amount to Rs.2,70,07,013/-. The assessee claimed exemption under section 10(38) of the Act in return of income amount to Rs. 1,62,72,384/- but the Ld. AO treated the entire transaction as bogus transactions and added back under section 69 r.w.s. 115BBE of the Act amount to Rs.2,70,07,015/- with the total income of the assessee. Being aggrieved assessee filed an appeal before Ld. CIT(A). The Ld. CIT(A) partly allowed the appeal of the assessee. Being aggrieved the revenue filed an appeal before us. On the other hand, the assessee have challenged the jurisdiction of the Ld. AO for issuance of notice under section 148 by filing the cross objection.

CO. 117/Mum/2025 : A.Y. 2014-15

5. The Ld. AR filed a paper book pertaining to AY 2014-15, **comprising pages 1 to 287**, which has been taken on record. The Ld. AR submitted that the notice under section 148A(b) of the Act was duly issued on 26.05.2022, and the assessee filed its reply in compliance thereto on 10.06.2022, along with a detailed explanation dated 09.06.2022. Thereafter, the notice under section 148 of the Act was issued on 26.07.2022. The Ld. AR contended that, in light of the judgment of the Hon'ble Supreme Court in **Union of India v. Rajiv Bansal reported in 167 taxmann.com 70 (SC)**, the notice under section 148 was issued by the Ld. Assessing Officer beyond the permissible surviving period and is, therefore, bad in law. It was further submitted that the computation of the surviving period has

been duly annexed to the paper book. The said computation, presented in tabular form, is reproduced below:

SL OF PB	ISSUE	APB PAGE
29.	<u>Calculation of Surviving Period</u>	
	<i>a. Original Notice issued u/sec. 148 dated 8th June 2021. (Balance surviving period of 22 days).</i>	287
	<i>b. Notice dated 26th May 2022 u/sec. 148A(b) of the Act. In consequence to Hon'ble Surpeme Court Order dated 4th May, 2022.</i>	23-29
	<i>c. Letter of assessee submitted on 10th June, 2022 in pursuance to notice u/sec. 148A(b) of the Act.</i>	30-37
	<i>d. Notice u/sec. 148 of the Act dated 26th July,2022 for reopening the assessment for A.Y. 2014-15 along-with approval and case related information.</i>	46-53
	<i>e. Gap between the submission and Notice (d Less c) : 46 days (exceeding the surviving period of 22 days)</i>	

6. The Ld. DR argued and stands in favor of the order of the revenue authorities.

7. We have heard the rival submissions and considered the material available on record. We note that the notice under section 148 of the Act was initially issued on 08.06.2021. The limitation period, read with the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA), expired on 30.06.2021. The Ld. AO issued the reassessment notice under section 148 of the Act between 01.04.2021 and 30.06.2021 by relying on the erstwhile regime. Thus, by issuing the notice on 08.06.2021, the Ld. AO availed a survival period of 22 days, as contemplated in the judgment in **Rajeev Bansal** (supra). The assessee submitted its reply in compliance with the notice under section 148A(b) of the Act

on 10.06.2022. Thereafter, the final notice under section 148 of the Act was issued on 26.07.2022, i.e., after a lapse of 46 days from the date of submission of the assessee's reply. The final notice under section 148 was thus issued beyond the permissible survival period of 22 days. In view of the decision of the Hon'ble Supreme Court in **Rajeev Bansal** (supra), the Ld. AO has exceeded the permissible period of 22 days, thereby acting beyond the limitation prescribed by the Hon'ble Apex Court. Consequently, the notice issued under section 148 of the Act dated 26.07.2022 is bad in law. Accordingly, the Ld. Assessing Officer did not validly assume jurisdiction to frame the assessment under section 147 read with section 144B of the Act, and the assessment order is liable to be quashed.

Since the issue has been decided on a jurisdictional legal ground, the grounds raised on merits are rendered academic and are, therefore, left open.

CO. 118/Mum/2025 A.Y. 2015-16

8. Related to this impugned assessment order the Ld. AR argued filed a paper book containing **page 1 to 225** which has been placed on record. The Ld. AR stated that the notice under section 148A(b) was issued on 27 May 2022 which is annexed in **APB page 10 to 16**. The Ld. AR contended that the reply against this notice on 09.06.2022 which is annexed in **APB page 17 to 23**. But considering the order of the Hon'ble Supreme Court in **Rajiv Bansal** (supra) in para no.19(b) the notice under section 148 of the Act for AY 2015-16 is invalid. The said issue was duly conceded by the revenue before the Hon'ble Supreme Court so accordingly, the assessment initiated by the Ld. AO is stands dismissed. The Ld. DR only relied on the order of the revenue authorities.

9. The Ld.DR argued & stands in favour of the orders of revenue authorities.

10. We heard the rival submission and considered the document available in the record. We find that the said issue is duly covered by the order of the Hon'ble Supreme Court in *Rajiv Bansal* (supra). Accordingly, the ruling of the Hon'ble Supreme Court is duly applicable for assessee and the notice initiated by the revenue stands quashed. So the entire addition made by the Ld. AO is dismissed.

We have carefully considered the rival submissions, examined the material available on record, and taken note of the judicial precedents. The assessee's challenge is fundamentally on the jurisdictional ground namely, that the notice issued under section 148A(b) dated 27/05/2022 is void ab initio, being issued beyond the period of limitation for A.Y. 2015-16, and squarely covered by the binding decisions of the Hon'ble Supreme Court in **Rajiv Bansal** (supra) and the Hon'ble Bombay High Court in **Verjina Foods Limited vs the Income Tax Officer, Ward-1(1), Kalyan** W.P. No.1428 OF 2023, date of order **06/10/2025**. The legal position that emerges from these authorities is unambiguous & all reassessment notices issued for A.Y. 2015-16 on or after 01/04/2021 are barred by limitation and must be dropped, as they do not fall within the extended period permissible under TOLA. The Hon'ble Bombay High Court has repeatedly applied this principle and quashed reassessment notices in identical fact situations. In the present case, the impugned notice under section 148A(b) was issued on 27/05/2022, well beyond the legally permissible period. Consequently, the reassessment proceedings lack jurisdiction from their inception. The Ld. DR, despite relying on

the orders of the revenue authorities, was unable to produce any contrary decision to rebut the judicial precedents cited by the Ld. AR.

In view of the above, the legal ground pertaining to the validity of the reassessment notice goes to the root of jurisdiction and is sufficient to vitiate the entire proceedings. Once the notice itself is void ab initio, the consequent reassessment order cannot survive. Accordingly, the additions made by the Ld. AO become purely academic and need not be adjudicated on merits. We therefore hold that the reassessment proceeding initiated under section 148A(b) is invalid, and the reassessment order passed pursuant thereto is liable to be quashed. As the issue is decided on the jurisdictional legal ground, the grounds on merits are rendered academic and are kept open.

11. In view of the foregoing discussion, both the CO Nos. **117** and **118/Mum/2025**, filed by the assessee are allowed. As the assessment orders have been quashed on legal grounds, the appeals filed by the revenue on merits are rendered infructuous and are, accordingly, dismissed.

12. In the result, the appeal of the revenue bearing **ITA No.1932** and **1933/Mum/2025** are dismissed and the assessee's **CO.117/Mum/2025** and **118/Mum/2025** stands allowed.

Order pronounced in the open court on 22nd day of January, 2026.

Sd/-

(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER

Sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Mumbai,दिनांक/Dated: 22/01/2026
SaumyaSr.PS

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

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BY ORDER,

(Asstt. Registrar), ITAT, MUMBAI