

**IN THE INCOME-TAX APPELLATE TRIBUNAL “D” BENCH,
MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No.5805/MUM/2025
(A.Y. 2015-16)**

Diamond Tradecom Private Limited Shop No.1, Shiv Ganga CHS Ltd., Ram Kuwar Thakur Road, Dahisar (East), Mumbai - 400 068, Maharashtra	v/s. बनाम	Income Tax Officer, Ward - 12(2)(1), Room No. 147B, Aayakar Bhavan, M.K. Road, Mumbai - 400020, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AACCD8131A		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri Subhash Chhajed, AR
Respondent by :	Shri Umashankar Prasad, (CIT DR)

Date of Hearing	02.12.2025
Date of Pronouncement	20.01.2026

आदेश / ORDER

PER PRABHASH SHANKAR [A.M.] :-

The present appeal arising from the appellate order dated 06.03.2025 is filed by the assessee against the order passed by the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] pertaining to assessment order passed u/s. 147 r.w.s. 144 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] dated 09.05.2023 for the Assessment Year [A.Y.] 2015-16.



2. The grounds of appeal are as under:

1. On the facts and circumstances of the case and in law, Ld. CIT(A) has erred in confirming the impugned assessment order u/s 147 r.w.s. 144 and 144B of the Act completed by Ld. AO without complying with the jurisdictional and mandatory requirements and conditions envisaged in section 147/148/151 of the IT Act, 1961 and therefore the entire Reassessment proceedings u/s 147/148 of the Act are liable to be quashed as null and void And bad in law.
2. On the facts and circumstances of the case and in law, Ld. CIT(A) vide impugned order passed u/s 250 of the Act erred in not quashing the impugned assessment order passed u/s 147/148 being based on invalid jurisdictional notice u/s 148 dated 29.07.2022 For Assessment year 2015-16 issued in violation of mandate of sec. 149(1)(b) of 1961 Act and time barred being issued beyond the lapse of 6 years from the end of Assessment year 2015-16 as per proviso to section 149(1)(b) of the Act.
3. On the facts and circumstances of the case and in law, Ld. CIT(A) vide impugned order passed u/s 250 of the Act erred in not quashing the impugned assessment order passed u/s 147/148 being based on invalid jurisdictional notice u/s 148 dated 29.07.2022 issued without supplying the sanction obtained from specified authority u/s 151 of the Act.
4. On the facts and circumstances of the case and in law, Ld. CIT(A) ought to have appreciated that the Jurisdiction Assessing officer (JAO) has no jurisdiction to issue notice u/s 148 of the IT Act., 1961 after the CBDT notification No. 18 of 2022 dated 29-03-2022 issued u/s 151 A of the Act mandating the reassessment proceedings in faceless manner by Faceless Assessing officer (FAO) from 29th March 2022 onwards.
5. On the facts and circumstances of the case and in law the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi erred in dismissing the grounds of appeal for non prosecution and non-attendance by the appellant without disposing off each ground of appeal on merits, without stating the reasons for determination and the decisions thereon in terms of section 250(6) of the Income Tax Act., 1961. The Appellant therefore request your honour to set aside the appellate order passed by the Hon. CIT (A) AND remand back the matter to the file of Hon. CIT(A) for fresh adjudication on merits.

ADDITION U/S 69A

6. On the facts and circumstances of the case and in law, Ld. CIT(A) erred in the confirming the addition of Rs. 14,27,22,000/- u/s 69A of the IT Act., 1961 made by the Ld. AO being unexplained money as investment in equity shares, units of Mutual Fund and Commodity Exchange.

ADDITION U/S 69



7. On the facts and circumstances of the case and in law, Ld.CIT(A) erred in confirming the addition of Rs. 1,88,33,000/- made by the Ld. AO on account of Purchase of Immovable Property u/s 69 of the IT Act., 1961 as unexplained investment.

ADDITION OF SHORT TERM CAPITAL GAINS

8. On the facts and circumstances of the case and in law, Ld. CIT(A) erred in confirming the addition of Rs. 24,01,000/-made by the Ld. AO as short term capital gain on sale of equity shares.

3. At the outset, it was noticed that the instant appeal is delayed by 140 days. In this regard, the assessee submitted an application for condonation of the delay along with an sworn affidavit of Sri Narendra S. Shah, Director stating that he was just 7th std. educated person and not being a computer techno savvy person, he was completely dependent on his Chartered Accountant, Sri Mohanlal Jain for his tax obligations and statutory compliances under the Act, handling scrutiny assessment and appellate matters. Therefore, he was not aware of ongoing income tax matters with the department. The assessment for the AY 2015-16 had been completed ex-parte u/s 144 of the Act by the AO on 18/04/2022 account of the non-attendance by the CA. Further, even appeal before the CIT (A)/NFAC had not been attended by him for the reasons not known to him. It was only when he received the notice of recovery of the outstanding dues for AY 2015-16 from the department, he realized that appeal was dismissed for non-attendance and non-prosecution. All these factors and the compelling bonafide reasons amounted to delay of 140



days in filing this appeal. The delay was completely unintentional and without any malafide motive. He should not be penalized for gross negligence of the CA.

4. On careful consideration of the submissions of the assessee, we are of the view that the delay in filing of the appeal was not intentional. Negligence of the CA could be considered as 'sufficient cause' on the factual matrix of this case. The assessee should not be defenceless because of CA's negligence. A liberal view of the matter needs to be taken. In this connection, reliance could be placed on the landmark decision of hon'ble Supreme Court which inter alia held in **Collector, Land Acquisition v Mst. Katiji And Others- 167 ITR 471 (SC)** that *"ordinarily, a litigant does not stand to benefit by lodging an appeal late.....Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated....Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.... A litigant does not stand to benefit by resorting to delay. In fact, he runs serious risk."* We therefore, condone the delay.



5. Briefly stated facts of the case are that the assessee company filed its return of income for relevant assessment year declaring income of Rs.2,75,390/-. As per the information available in the Insight Portal of the department, the assessee company had made high value multiple transaction during the relevant financial year amounting to Rs18,30,00,000/-. Accordingly, the case of the assessee company was reopened by issuing notice u/s.148 of the Act. The AO provided several opportunities to the assessee and finally passed ex parte order u/s 144 of the Act making various additions on account of non compliance by the assessee. In the subsequent appeal before the Id.CIT(A) also, no compliance was made to various notices issued from time to time. Consequently, the appeal was dismissed *in limine* and the action of the AO was upheld.

6. At the outset, before us, the Id.AR has raised preliminary issue of validity of the assessment order and the reassessment proceedings claiming that the same are barred by time limitation and the consequential reassessment order is also *non est* and *ab initio void*. It is stated that the impugned notice issued to the assessee on 29.07.2022 could be considered valid in view of the ratio laid by the hon'ble Apex Court. A chronology of the proceedings as submitted is reproduced below:



S N	DESCRIPTION	DATE
1.	Original Notice u/s 148 of IT Act., 1961 Without accompanying Approval by Hon. PCIT Mumbai-4	30/06/2021
2	Notice issued u/s 148A(b) of IT Act., 1961 Post UOI vs. Ashish Agarwal (SC)	27/05/2022
3	Unsigned attachment to Notice u/s 148A(b) of IT Act., 1961	27/05/2022
4	Date of Reply to Notice u/s 148A(b)	28/06/2022
5	Order u/s 148A(d) without accompanying Approval of PCCIT-4 DT. 29.07.2022	29/07/2022
6	Notice u/s 148 of IT Act., 1961 without bearing "DIN" (Document identification No)	29/07/2022
7	Letter for Closure proceedings of original Notice issued u/s 148 on 30/06/2021	17/01/2023
8	Assessment order passed u/s 147 r.w. 144 and 144B of IT Act., 1961	09/05/2023

7. We have carefully considered all the relevant facts of the case. Here the notice u/s. 148 of the old regime was issued on **30.06.2021**. Later, pursuant to the judgment in case of **Union of India vs. Ashish Agarwal [2022] 138 taxmann.com 64 (SC) dated 04.05.2022**, it was directed among other things that notice issued u/s.148 shall be deemed to have been issued u/s. 148A as substituted by the **Finance Act, 2021** and construed or treated to be the show cause notice in terms of **section 148A(b)**. In view of this direction, the said notice u/s. 148, dated 30.06.2021 was deemed to be a show cause notice u/s. 148A(b) for which another one was issued on **27.05.2022**, complying with the direction given in the case of **Ashish Agarwal (supra)**. Thereafter, provisions of **section 148A(d)** were



complied with by passing an order, dated **29.07.2022** and issuing a notice u/s.148 of the same date (under the new regime). The assessee has claimed that the notice so issued is bad in law, invalid, void ab initio, to be quashed. The Ld. AR strongly submitted that it is barred by limitation making the impugned reassessment proceedings and resultant reassessment order bad in law. Per contra, the ld. DR relied on the orders of authorities below.

7.1 We have heard rival submissions. The controversy lies whether the notice issued under section 148 of the Act for A.Y. 2015-16 is barred by limitation or not?. The Hon'ble Supreme Court in **Union of India v. Rajiv Bansal** (supra) has conclusively interpreted the interplay between the amended provisions of sections 148 and 149, the old regime, and TOLA. Significantly, the Revenue itself conceded before the Hon'ble Supreme Court that for A.Y. 2015-16, all notices issued on or dropped, as they would not fall after 01.04.2021 are liable to be dropped, for completion within the period prescribed under TOLA. The contention of the assessee is that the said notice is barred by limitation as per the first proviso to the amended provisions of section 149(1) as has been un-amended confirmed by the decision of the Hon'ble Supreme Court in the



case of [Rajeev Bansal](#) (Supra). The relevant observations of the Hon'ble Supreme Court reads as under-

19. Mr N Venkataraman, learned Additional Solicitor General of india, made the following submissions on behalf of the Revenue: (a) to (e)*****

(e)**

(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;

7.2 We find that the facts of assessee's case are identical to those in the judgment of the Hon'ble Supreme Court in [UOI v. Rajeev Bansal](#) which has been consistently followed by the coordinate Bench of the ITAT, Mumbai, in a plethora of cases.

7.3 Further, the Hon'ble Bombay High Court in **Virginia Foods Ltd. v. ITO [(2025) 179 taxmann.com 626 (Bom)]** has categorically held that notices issued for A.Y. 2015-16 on or after 01.04.2021 are invalid, taking note of the concession recorded by the Hon'ble Supreme Court in [Rajiv Bansal](#) (supra). In the case of **Deepak Steel and Power Ltd. v. CBDT [2025] 174 taxmann.com 144/305 Taxman 169/476 ITR 369 (SC) (02-04- 2025)**, wherein at paragraph 4 and 5 it was held as under :

"4. The learned counsel appearing for the revenue with his usual fairness invited the Court to a three judge bench attention of this Court decision of this Court in [Union of India v. Rajeev Bansal](#) 2024 SCC OnLine SC 2693/[2024]



167 taxmann.com 70/301 Taxman 238/469 ITR 46 (SC), more particularly, paragraph 19(f) which reads thus :

"19.(f) The Revenue concedes that for the assessment year 2015-2016, all notices issued on or after 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](#)."

5. As the Revenue made a concession in the aforesaid decision that is for the assessment year 2015-2016, 2015 all notices issued on or after 1st April, 2021 will have to be dropped as they would not fall for completion during the period prescribed under the the taxation and other laws (Relaxation and Amendment of certain Provisions Act, 2020). Nothing further is required to be adjudicated in this matter as the notices so far as the present litigation is concerned is dated 25.6.2021."

7.4 Similarly, in **ITO v. R.K. Build Creations (P) Ltd. (Special Leave Petition (Civil) Dairy No. 59625 of 2024]**, the Hon'ble Supreme Court dismissed the Special Leave Petition arising out of a decision rendered by the Hon'ble Rajasthan High Court in **R.K. Buildcreations (P) Ltd. v. Income-tax Officer Taxman 166 (Rajasthan)/DBC WP No. 14414/2022**. Thus, the Revenue has itself time and again reiterated before the Hon'ble Supreme Court in the above cases that the notice for reassessment issued under [Section 148](#) on or after 1st April 2021 [in respect of A.Y. 2015-16] ought to be dropped as conceded in para 19(1) of the decision in the case of [Rajeev Bansal](#) (supra).

7.5 This issue had come up before the Hon'ble Delhi High Court in the case of **IBIBO Group Pvt. Ltd. vs. ACIT, WP(C)17639 of**



2022, dated 13.12.2024 wherein reassessment action for Assessment Year 2015- 16 was held to be not sustainable. Hon'ble Court quashed the notice issued u/s.148 as well as order passed u/s. 148A(d), dated 23.07.2022 for Assessment Year 2015-16 by following the decision in the case of **Rajeev Bansal** (supra).Hon'ble Supreme Court while dismissing the SLP filed by Revenue in the case of **ACIT vs. Nehal Ashit Shah in SLP (Civil) Diary No(s). 57209/2024, dated 04.04.2025** held that it does not survive for further consideration.

8. In view of the binding judgment of the Hon'ble Supreme Court in **Rajiv Bansal** (supra), and the consistent judicial view taken by the High Courts and Coordinate Benches, we hold that the notice issued under **section 148** dated 29.07.2022 for Assessment Year 2015-16 is barred by limitation and, therefore, without jurisdiction. Consequently, the entire reassessment proceedings initiated pursuant thereto are quashed.

9. Since the reassessment itself is annulled on jurisdictional grounds, the other grounds raised by the assessee on merits do not survive for adjudication and are left open.

10. In the result, **the appeal of the assessee is allowed.**



Order pronounced in the open court on 20/01/2026.

Sd/-

AMIT SHUKLA

(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकारसदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai
दिनांक /Date 20.01.2026
Lubhna Shaikh / Steno

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
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आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

