

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C”BENCH: BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

IT(IT)A No.278/Bang/2025
Assessment Year : 2015-16

Raghavan Nambath Menon #158, Bellezea Muthanallur Circle Chandapura Dommasandra Road Anekal Taluk 560 099 Karnataka PAN NO : ACFPM4825Q	Vs.	ITO Ward Intl. Taxation 1(2) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	CA Suresh Muthukrishnan, A.R.
Respondent by	:	Dr. Divya K.J., CIT D.R.

Date of Hearing	:	12.11.2025
Date of Pronouncement	:	06.02.2026

O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER:

This appeal at the instance of the assessee is directed against the order of the Id. Income Tax Officer, Ward Intl. Taxation 1(2), Bangalore dated 17.12.2024 vide DIN & Order No. ITBA/AST/S/147/2024-25/1071274366(1) for the assessment year 2015-16.

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

1. The order of the learned Assessing Officer in so far as it is against the Appellant is opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.
2. The Notice issued u/s 148 of the Act is barred by limitation under the facts and circumstances of the appellant's case and therefore the consequent proceedings need to be set aside.
3. The authorities below are not justified in making addition of INR 10,12,160/- to the total income of the appellant while the actual income earned by the appellant during the year under consideration was INR 1,91,920/- which is below the basic exemption limit chargeable to tax under the facts and in the circumstances of the Appellant's case.
4. The authorities below have erred in concluding that the appellant did not file a return of income for the year under consideration, given that the income reported was below the basic threshold limit chargeable to tax.
5. The authorities below are not justified in adding INR 10,12,160/- being the amounts received under a valid agreement of sale by treating the same as unexplained cash credit u/s. 68 of the Act under the facts and in the circumstances of the Appellant's case.
6. The authorities below have erred in sustaining an addition of INR 10,12,160/- on a mere assumption, suspicion and surmise under the facts and in the circumstances of the Appellant's case.
7. Without prejudice to the above, the Appellant denies being charged to interest u/s. 234-A and 234-B of the Act, which under the facts and in the circumstances of the Appellant's case deserves to be cancelled.
8. For the above and other grounds that may be urged at the time of hearing of the appeal, your Appellant humbly prays that the appeal may be allowed, and Justice rendered.

3. Brief facts of the case are that the assessee is a non-Resident and did not file his return of income in India for the AY 2015-16 as his income in India was way below the taxable limit chargeable to tax in India. The case of the assessee was re-opened u/s. 147 of the Act after following due procedure as envisaged u/s. 148A of the Act. Accordingly, a notice u/s. 148 of the Act was issued to the assessee on 19/04/2022. In response to the notice u/s. 148 of the Act, the assessee filed his return of income on 18/05/2022 declaring total income of Rs.1,91,920/-. Accordingly, the notices u/s. 143(2) and 142(1) of the Act were issued along with the Show Cause notice dated 05/12/2023 to the assessee. As observed by the AO, the assessee made only part compliances.

3.1 In the instant case, specific information was disseminated through the insight portal in accordance with the risk management strategy (RMS) formulated by the CBDT. As per the information available, the assessee had undertaken the below mentioned transactions-

Information Code	Information description	Source	Amount (Rs.)
AIR-001	Deposited cash of Rs.10,00,000 or more in a saving bank account	Canara Bank	45,81,660
TDS-194IA(P)	TDS return- TDS on sale of property	Raghavan N Menon	1,99,46,440
CIB-403	Time deposit exceeding Rs.2,00,000	-	11,75,035

The AO after considering the reply of the assessee, concluded the assessment proceedings by holding that the assessee has failed to establish the sources of fund for making cash deposits to the extent of Rs.10,12,160/- and hence the amount of Rs.10,12,160/- remains unexplained which needs to be brought to tax u/s. 68 of the Act.

Hence, amount of Rs.10,12,160/- was added back to the total income of the assessee as unexplained cash credit u/s. 68 of the Act as per the direction passed by the ld. DRP. The AO completed the assessment proceedings on a total assessed income of Rs.12,04,080/- as against total income declared as per return amounting to Rs. 1,91,920/-.

4. Aggrieved by the assessment completed u/s. 147 r.w.s 144C(13) of the Act vide order dated 17/12/2024, the assessee has filed the present appeal before this Tribunal. The assessee has also filed a paper book comprising 209 pages containing therein the copies of notices/ order/ ITR/ synopsis of objections filed/ copy of additional evidence/ copy of remand report as well as rejoinder to remand report along with the case laws relied upon by the assessee.

5. Before us, the ld. AR of the assessee at the outset by raising the legal ground vehemently argued that the notice issued u/s. 148 of the Act dated 19/04/2022 are barred by limitation. The ld. AR of the assessee submitted that as per the provisions of section 149 of the Act as introduced by Finance Act 2021, which prescribed the time limit for issuance of notice u/s. 148 of the Act states that no notice u/s. 148 of the Act shall be issued to the assessee at any time in a case for the relevant AY beginning on or before first day of April, 2021, if such notice could not have been issued at that time on account of the beyond the time limit specified under the provisions of clause (b) of sub-section(1) of section 149 as they stood immediately before the commencement Finance Act, 2021. Further, the ld. AR of the assessee submitted that in the present case, the last date for issuance of notice u/s. 148 of the Act under the erstwhile section 149(1)(b) for AY 2015-16 is only up to 31st March 2022. Further, even if we consider the permissible exclusion/ extension under 3rd and 4th proviso as stood then, the notice the u/s. 148 could have been issued

on or before 18/04/2022. However, in the present case the notice was issued on 19/04/2022 and accordingly the notice is time barred and subsequent proceedings including re-assessment order passed are void-ab-initio. Without prejudice, the ld. AR of the assessee submitted that the ld. AO exceeded his jurisdiction by invoking the extended period as per the provisions contained in section 149(1)(b) of the Act especially when the income addition were made to the tune of Rs. Rs.10,12,160/- only which is way below Rs.50 lakhs as prescribed.

6. The ld. DR on the other hand with regard to the above legal ground raised by the assessee filed a written submission which is reproduced below:-

Submission of the Revenue regarding Ground of Appeal filed by the assessee regarding the time limit:-

The assessee has raised the following legal grounds of appeal in this case.

The notice issued u/s. 148 of the Act is barred by limitation under the facts and circumstances of the appellant's case and therefore the consequent proceedings need to set aside.

As per the sec.149 prior to the amendment introduced by Finance Act, 2021,

149.(1) No Notice under section 148 shall be issued for the relevant assessment year,-

- (a) if your years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b) or clause (c)1;*
- (b) if your years, but not more than six years, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to one lakh rupees or more for that year.*
- (c) If four years, but not more than sixteen years, have elapsed from the end of the relevant assessment year unless the income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment.*

In the case of the assessee, the income which has escaped assessment is more than one lakh rupees and hence sec. 149(1)(b)

applies. Hence the time limit to issue notice u/s. 148 is 31/03/2022 as the assessment pertains to AY 2015-16. In this case the notice u/s. 148A(b) has been issued on 26/03/2022, providing time to the assessee to file a reply by 11/04/2022. The assessee has filed a reply on 11/04/2022.

*As per the fifth proviso to sec.149,
... “for the purposes of computing the period of limitation..... the time or extended time allowed to the assessee as per show cause notice u/s. 148A(b) or the period during which the proceedings u/s.148A is stayed by an order..... is excluded.
Further as per the 6th proviso,*

Provided also that where immediately after the exclusion of the period referred to in the immediately preceding proviso, the period of limitation available to the assessing officer for passing and order under 148A(d) does not exceed seven days, such remaining period shall be extended to seven days and the period of limitation under this sub-section shall be deemed to be extended accordingly.

Based on the above provisos and the fact that the assessee has been given time until 11/04/2022 for replying, it is submitted that the notice u/s. 148 is well within time and hence the ground raised by the assessee on this issue may be dismissed. It is prayed that the order of the assessing officer may be upheld.

6.1 In addition to the above the ld. DR also submitted another written submission which is reproduced below for ease of reference and convenience: -

- 1. The Assessing Officer has, after receiving information on Insight Portal, as per RMS, issued notice under section 148A(b) on 26/03/2022 to the assessee to give response/ objection to the same within 11/04/2022. The notice u/s. 148A is for AY 2015-16 and as per the Act, there is time limit of 6 years available to the assessing officer for reopening of assessment if the income escaping assessment is more than Rs.1 lakh. In this case the income escaping assessment is more than Rs.1 lakh and the time limit of six years ends on 31/03/2022. The AO has issued notice **26/03/2022, which is well within the time limit of six years.** Pursuant to the said notice, the assessee has filed its objections on 11/04/2022. Thereafter, the Assessing Officer has passed order under section 148A(d) on 18/04/2022 and issued notice u/s. 148 on 19/04/2022.*

2. *As per the provisions of the Income Tax Act, 1961, the fifth proviso under section 149(1) provides that for the purposes of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice issued under clause (b) of section 148A or the period during which the proceeding under section 148A is stayed by an order or injunction of any court, shall be excluded.*
3. *The sixth proviso under section 149(1) of the Act provides that where immediately after the exclusion of the period referred to in the immediately preceding proviso, the period of limitation available to the assessing officer for passing an order under clause(d) of sec. 148A does not exceed seven days, such remaining period shall be extended to seven days and the period of limitation under this sub-section shall be extended accordingly.*
4. *In the instant case, notice under section 148A(b) of the Act was issued on 26/03/2022 by which assessee was asked to give response/objection to the same within 11/04/2022. In response to the same, assessee has filed its objection on 11/04/2022. On a plain reading of 5th proviso to Section 149, the time period of 16 days allowed to assessee to give response/objection needs to be excluded. Further as per 6th proviso a period of 7 days need to be excluded. The assessing officer has passed the order u/s. 148A(d) on 18/04/2022 and issued the notice u/s. 148 on 19/04/2022, which very well falls within the limitation period.*
5. *The department also relies on the decision of Calcutta High Court in the case of Manoj Kumar Bagree Vs ITO in 176 Taxmann.com 58, attached as annexure. The assessee's reliance on the case of Rajeev Bansal is misplaced, as the current case is not on the limitation date as extended by TOLA.*
6. *Without prejudice to the above, it is also submitted that provisions of the sec.148A and sec.149 require that the order u/s. 148A (d) be passed within the stipulated time period prior to the issue of notice u/s. 148. Hence the order passed u/s. 148A (d) in this case is well within time.*
7. *Hence, it is humbly submitted that the above submissions may be considered and the case decided on merits, upholding the order of the Assessing officer.*

7. We have heard the rival submissions and perused the material available on record. It is an undisputed fact that the assessee is a non resident and contended that he did not file his return of income in India for the assessment year 2015-16 as his income in India was

well below the maximum amount which is not chargeable to income Tax. His contention also get support from the fact that the assessee in response to the notice u/s 148 of the Act filed his return by declaring the total income of Rs.1,91,920/-.Undisputedly, the AO by invoking the extended period as per the amended provisions of Section 149(1)(b) of the Act had issued notice u/s 148 of the Act for the Asst. year 2015-16 on 19/04/2022, however concluded the reassessment proceedings on 17/12/2024 by adding alleged escaped income of Rs.10,12,160/- only. On going through the Annexure to the SCN issued u/s 148A(b) of the Act dated 26/03/2022, we take note of the fact that the prime allegation of the AO was that the assessee had made certain investments in time deposits, cash deposits in Saving Bank Account & also purchased a immovable property, the total value of which were Rs.3,02,84,795/- and accordingly had **reason to believe** that income relatable to the investments are not explained & same has escaped assessment for the Asst. year 2015-16. The AO invoked the extended period since the above investments/income fall in the category of 'asset' as per explanation to section 149(1) and the income escaping assessment represented in the form such assets, amounts to more than fifty lakh rupees. In reply to the SCN, the assessee categorically stated that the time deposit pertains to the NRE FD A/c which is not taxable. Further FD closure proceeds were utilized to open another FD A/c on the same day. With regard to cash deposits in joint SB A/c, the assessee submitted that the deposits pertain to the gifts received by his wife from her father who out of natural love & affection deposited the funds into the joint bank account. Lastly, the assessee submitted that he had purchased a property from Nambiar Builders Pvt. Ltd. total amounting to Rs. 3.56Cr. The Source of funds was his salary earned abroad and also he had taken a home loan of Rs.50.96 lakhs during the AY 2015-16. The assessee had also submitted the copy of his tax return for 2014 as proof of income which was over USD

170,000. The AO while passing the order u/s 148A(d) of the Act although accepted the contention of source of investment for time deposits but did not accept the contention of the source of purchasing the immovable property by merely stating that the assessee failed to establish any link between the investment so made with the income earned abroad. Lastly, in the absence of any proper and valid documents establishing the genuineness & credit worthiness of the party or genuineness of the transaction, the AO also disbelieved the gift received by his wife from her father.

7.1 On going through the above, we are of the considered opinion that the AO by issuing a show cause notice u/s 148A(b) of the Act had made just a roving & phishing enquiry based on the surmises & conjunctures after getting the data available from the “Taxpayer profile” on the insight portal. After the amendment made in the Finance Act, 2021, there is no such concept of “reason to believe” as stated by the AO in the SCN dated 26/03/2022 for reopening of the cases u/s 147 of the Act but instead it is replaced by the “information suggesting escapement of income”. So what is evidently missing from the amended provisions is the term “Reasons to believe”. In other words, under the new provisions, as per the first proviso to section 148 of the Act, no notice shall be issued unless there is information with the AO which suggests that income chargeable to tax has escaped assessment. Thus, the AO has to be prima facie satisfied that there is “escapement of income” unlike the earlier law which permitted action based on mere reason to believe. Now mere reason to believe cannot be a ground for carrying out assessment under section 147 of the Act. Further, the extended period as per the provisions of section 149(1)(b) of the Act can be invoked only when the AO has in his **possession** books of account or other documents or evidence which **reveal** that income chargeable to tax represented in the form of an asset/expenditure/entry or entries in the books of

account which has escaped assessment amounts to or is likely to amount to 50 Lakhs rupees or more. We are of the opinion that, for invoking the extended period, more obligations are casted upon the AO. Thus, post amendment of the provision, the escapement has to be established with concrete information. Section 148A would only assist the AO in coming to a conclusion whether such information is good enough to allow a notice to be issued u/s 148 of the Act. By saying so, we take a guidance & support from the decision of Hon'ble Jurisdictional High Court of Karnataka in the case of Smt. Vasanthi Ramdas Pai, and Dr. Ramdas Madhava Pai v. The Income Tax Officer reported in (2024) 470 ITR 536. Thus, we are of the considered opinion that merely based on the reason to believe, the AO should not have proceeded to reopen the case of the assessee under section 147 of the Act unless the escapement has been established with concrete information. More particularly, for invoking the extended period, the AO must have in his **possession** books of account or other documents or evidence which **reveal** that income chargeable to tax represented in the form of an asset has escaped assessment which is missing in the present case. Our view also gets support from the fact that the AO finally concluded the assessment proceeding by adding alleged escapement of income amounting to Rs. 10,12,160/- only (< 50 Lakhs) by invoking the provisions of amended section 149(1)(b) of the Act which is not permissible. On this score only, we find the notice issued u/s 148A(b) of the Act to be illegal & bad in law.

7.2 Further, now coming to the contention/argument of the assessee that the notice issued u/s 148 of the Act is barred by limitation and therefore the consequent proceedings need to be set aside. Undisputedly, the notice u/s 148 of the Act for the assessment year 2015-16 was issued on April 19, 2022. Prior to this, a show-cause notice (SCN) u/s 148A(b) of the Act was issued on March 26, 2022, granting 16 days for a reply, and an order u/s 148A(d) of the Act was

subsequently passed on April 18, 2022 after considering the reply filed by the assessee on 11/04/2022. Now, it is apposite here to note down the chronological date of event for a better appreciation of fact which are detailed below-

Particulars	Date	Paper Book reference
Last date for issuing notice u/s. 148 under erstwhile section 149(1)(b) for AY 2015-16 (6 years from end of AY)	31/03/2022	NA
Issuance of Show cause notice u/s. 148A(b)	26/03/2022	1
Due Date/time provided to respond to the show cause notice issued u/s. 148A(b) as cited in the Notice u/s. 148A(b)	11/04/2022	1
Date of response by the Assessee	11/04/2022	32
Approval by Specified Authority-PCCIT (IT), DELHI as cited in the order u/s. 148A(d)	13/04/2022	34
Date of Order u/s. 148A(d)	18/04/2022	34
Last permissible date for issuing notice u/s. 148 (Even if after exclusion / extensions under 3 rd and 4 th provisos as it stood then)	18/04/2022	NA
Issuance of Notice u/s. 148	19/04/2022	41

Thus, the core issue revolves around whether the issuance of the Section 148 notice on April 19, 2022, for AY 2015-16, falls within the permissible time limits or not?

7.3 Before proceeding further, it is apposite here to mention the relevant provisions of the Act as it stood then which are as follows-

Time limit for notice.

149. (1) No notice under section 148 shall be issued for the relevant assessment year,-

(a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);

(b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year:

Provided that no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if such notice could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause(b) of sub-section (1) of this section, as they stood immediately before the commencement of the Finance Act, 2021:

Provided further that the provisions of this sub-section shall not apply in case, where a notice under section 153A, or section 153C read with section 153A, is required to be issued in relation to a search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, on or before the 31st day of March, 2021:

Provided also that for the purposes of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice issued under clause(b) of section 148A or the period during which the proceeding under section 148A is stayed by an order or injunction of any court, shall be excluded:

Provided also that where immediately after the exclusion of the period referred to in the immediately preceding proviso, the period of limitation available to the Assessing Officer for passing an order under clause (d) of section 148A is less than seven days, such remaining period shall be extended to seven days and the period of limitation under this sub-section shall be deemed to be extended accordingly.

Explanation.- For the purposes of clause (b) of this sub-section, "asset" shall include immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account.

7.4 On going through the above provisions, we take note of the fact that for the AY 2015-16, the old 6 years limit expired on March 31, 2022. Therefore, the notices issued between 01/04/2021 and 31/03/2022, for escaped income of Rs. 50lakhs or more, could be

valid if section 148A procedures were followed and the notice was not time-barred under the old law as of 31/03/2021. However, the notices issued after 31/03/2022, would generally be invalid as they would have become time-barred under the old law, failing the test of the first proviso to section 149(1) of the Act. Thus, the validity of the notice issued u/s 148 of the Act on April 19, 2022, for AY 2015-16, is primarily governed by the first proviso to the substituted Section 149(1) of the Act. This proviso stipulates that no notice under Section 148 shall be issued for an assessment year beginning on or before April 1, 2021, if such notice could not have been issued under the time limits of the old regime (pre-Finance Act, 2021). It is an undisputed fact that for AY 2015-16, the last date for issuing a notice under the old regime was March 31, 2022. Since the notice was issued on April 19, 2022, it was issued after this cut-off date, rendering it time-barred under the old law. Consequently, the first proviso to the amended Section 149(1) acts as a bar, making the notice invalid, irrespective of the procedural compliance with Section 148A of the Act. We are also of the opinion that the exclusion of time under the 3rd & 4th provisos to Section 149(1) of the Act for Section 148A proceedings does not revive a notice that was already time-barred under the old regime as per the first proviso. We are of the considered opinion that the extended time limits of the new regime do not apply at all if the old limitation period had already expired as on 31/03/2022 & therefore the exclusions under the 3rd & 4th provisos to Section 149(1) of the Act does not arise at all. Thus, under the unamended Section 149(1)(b) of the Act, a notice under Section 148 of the Act could generally be issued within six years from the end of the relevant assessment year, provided the income escaping assessment amounted to or was likely to amount to one lakh rupees or more. Therefore, the last date for issuing a notice for AY 2015-16 under the old regime was **March 31, 2022**. Thus, the first proviso to amended section 149(1) acts as a statutory bar, preventing the

issuance of a notice under Section 148 for an assessment year like AY 2015-16 (which began on or before April 1, 2021) if such notice could not have been issued under the time limits of the old law. As stated earlier, the time limit for issuing a notice for AY 2015-16 under the old law expired on March 31, 2022. The notice in question was issued on **April 19, 2022**, which is *after* March 31, 2022. Consequently, the condition precedent for issuing a notice for AY 2015-16 under the new regime, as laid down by the first proviso to Section 149(1), is not met. The notice, having been issued after the expiry of the time limit under the old law, is therefore invalid.

7.5 The Hon'ble Supreme Court in the case of Union of India and others vs. Rajeev Bansal reported in (2024) 469 ITR 46 meticulously analyzed the first proviso to Section 149(1)(b) of the new regime. The relevant paragraphs are reproduced below-

"45. The first proviso to Section 149(1)(b) provides thus:

"149. (1) No notice under section 148 shall be issued for the relevant assessment year,

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(a) If three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);

(b) If three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in possession of books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year:

Provided that no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April 2021, if such notice could not have been issued at that time on account of being immediately beyond the time limit specified under the provisions of clause (b) of sub-section (1) of this section, as they stood immediately before the commencement of the Finance Act, 2021:"

[Emphasis supplied]

46. The ingredients of the proviso could be broken down for analysis as follows: (i) no notice under section 148 of the new regime can be issued at any time for an assessment year beginning on or before 1 April 2021; (ii) if it is barred at the time when the notice is sought to be issued because of the "time limits specified under the provisions of" 149(1)(b) of the old regime. Thus, a notice could be issued under section 148 of the new regime for assessment year 2021-2022 and before only if the time limit for issuance of such notice continued to exist under section 149(1)(b) of the old regime.

47. In CTO v. Biswanath Jhunjhunwalla 1996 taxmann.com 1141 (SC)/[1996] 5 SCC 626 the Bengal Sales Tax Rules 1941 empowered the Commissioner to revise any

assessment within four years from the date of assessment. Subsequently, the State Government issued a notification following the law to extend the time limit from four years to six years from the date of assessment. The extension of the time limit was challenged by the respondents on the ground that the assessments which had attained finality because of the expiry of the period of four years could not be reassessed. This Court observed that it was the clear intention of the notification to permit the Commissioner to revise any assessment made or order passed, provided the assessment had not been made before six years. It was held that if the legislative intention is clear and the language is unambiguous, full effect must be given to the legislative intention by reading the notification as applying not only to the incomplete assessments but also to assessments that had reached finality because of lapse of the earlier prescribed period. The principle that emanates from *Biswanath Jhunjhunwalla (supra)* is that the courts should give full effect to the legislative intention of granting reassessment powers to assessing officers unless the legislature, by express provision, states otherwise.

48. Notices have to be judged according to the law existing on the date the notice is issued. Section 149 of the old regime primarily provided two time limits: (i) four years for all situations and (ii) beyond four years and within six years if the income chargeable to tax which escaped assessment amounted to Rupees one lakh or more. After 1 April 2021, the time limits prescribed under the new regime came into force. The ordinary time limit of four years was reduced to three years. Therefore, in all situations, reassessment notices could be issued under the new regime if not more than three years have elapsed from the end of the relevant assessment year. For example, for assessment year 2018-2019, the four year period would have expired on 31 March 2023 under the old regime. However, if the notice is issued after 1 April 2021, the three year time limit prescribed under the new regime will be applicable. The three year time limit will expire on 31 March 2022.

49. The first proviso to Section 149(1)(b) requires the determination of whether the time limit prescribed under section 149(1)(b) of the old regime continues to exist for the assessment year 2021-2022 and before. Resultantly, a notice under Section 148 of the new regime cannot be issued if the period of six years from the end of the relevant assessment year has expired at the time of issuance of the notice. This also ensures that the new time limit of ten years prescribed under section 149(1)(b) of the new regime applies prospectively. For example, for the assessment year 2012-2013, the ten year period would have expired on 31 March 2023, while the six year period expired on 31 March 2019. Without the proviso to Section 149(1)(b) of the new regime, the Revenue could have had the power to reopen assessments for the year 2012-2013 if the escaped assessment amounted to Rupees fifty lakhs or more. The proviso limits the retrospective operation of Section 149(1)(b) to protect the interests of the assesses.

50. Another important change under section 149(1)(b) of the new regime is the increase in the monetary threshold from Rupees one lakh to Rupees fifty lakhs. The old regime prescribed a time limit of six years from the end of the relevant assessment year if the income chargeable to tax which escaped assessment was more than Rupees one lakh. In comparison, the new regime increases the time limit to ten years if the escaped assessment amounts to more than Rupees fifty lakhs. This change could be summarized thus:

<i>Regime</i>	<i>Time limit</i>	<i>Income chargeable to tax which has escaped assessment</i>
<i>Old regime</i>	<i>Four years but not more than six years</i>	<i>Rupees one lakh or more</i>
<i>New regime</i>	<i>Three years but not more than ten years</i>	<i>Rupees fifty lakhs or more</i>

51. *Given Section 149(1)(b) of the new regime, reassessment notices could be issued after three years only if the income chargeable to tax which escaped assessment is more than Rupees fifty lakhs. The proviso to Section 149(1)(b) limits the retrospectivity of that provision with respect to the time limits specified under section 149(1)(b) of the old regime.*

52. *In Ashish Agarwal (supra), this Court held that the benefit of the new regime must be provided for the reassessment conducted for the past periods. The increase of the monetary threshold from Rupees one lakh to Rupees fifty lakh is beneficial for the assesses. Mr Venkataraman has also conceded on behalf of the Revenue that all notices issued under the new regime by invoking the six year time limit prescribed under section 149(1)(b) of the old regime will have to be dropped if the income chargeable to tax which has escaped assessment is less than Rupees fifty lakhs.*

53. *The position of law which can be derived based on the above discussion may be summarized thus: (i) Section 149(1) of the new regime is not prospective. It also applies to past assessment years; (ii) The time limit of four years is now reduced to three years for all situations. The Revenue can issue notices under section 148 of the new regime only if three years or less have elapsed from the end of the relevant assessment year; (iii) the proviso to Section 149(1)(b) of the new regime stipulates that the Revenue can issue reassessment notices for past assessment years only if the time limit survives according to Section 149(1)(b) of the old regime, that is, six years from the end of the relevant assessment year; and (iv) all notices issued invoking the time limit under section 149(1)(b) of the old regime will have to be dropped if the income chargeable to tax which has escaped assessment is less than Rupees fifty lakhs.*

ii. TOLA can extend the time limit till 31 June 2021

54. *The proviso to Section 149(1)(b) of the new regime uses the expression "beyond the time limit specified under the provisions of clause (b) of sub section (1) of this section, as they stood immediately before the commencement of the Finance Act, 2021." Thus, the proviso specifically refers to the time limits specified under section 149(1)(b) of the old regime....."*

7.6 Thus, the Apex Court held that "no notice under section 148 of the new regime can be issued at any time for an assessment year beginning on or before 1 April 2021; if it is barred at the time when the notice is sought to be issued because of the 'time limits

specified under the provisions of 149(1)(b) of the old regime" (Para 46). This means that for AY 2015-16, a notice under the new Section 148 could only be issued if it was *not* time-barred under the old regime's Section 149(1)(b) of the Act. Further, the Apex Court held that for the AY 2015-16, the six-year limitation period under the unamended Section 149(1)(b) expired on March 31, 2022 (six years from the end of the relevant assessment year, i.e., March 31, 2016). The Supreme Court explicitly stated that "*a notice under Section 148 of the new regime cannot be issued if the period of six years from the end of the relevant assessment year has expired at the time of issuance of the notice*" (Para 49).

7.7 Now, coming to the revenue's reliance on the decision of Hon'ble High Court of Calcutta in the case of Manoj Kumar Bagree v. Income Tax Officer reported in [2025] 176 taxmann.com 58 (Calcutta), we noted that the facts & issue involved in the present case. The Asst. year involved in the present case is AY 2015-16 whereas, the case relied upon by the revenue is related to AY 2019-20. Further, in the present case, the notice u/s 148 of the Act was issued after 6 years from the end of the AY by violating the provisions of unamended section 149(1)(b) of the Act, whereas in that case the notice u/s 148 was issued well within the 6 years as per the erstwhile unamended section 149(1)(b) of the Act. Further, specifically for the AY 2015-16, the Revenue has conceded that all the notices issued on or after 01/04/2021 will have to be dropped which is not so in the case of revenue relied for the AY 2019-20. Therefore, we are not inclined to rely on the above case law cited by the Revenue.

7.8 Further, another contention of the Revenue is that the provisions of section 148A & section 149 require that the order u/s 148A(d) be passed within the stipulated time period prior to the issue

of the notice u/s 148 of the Act & hence the order passed u/s 148A(d) of the Act is well within the time. In this regard we are of the considered opinion that **section 149** of the Act stipulates the time limit to **issue the notice u/s 148 of the Act** & not the passing of the order u/s 148A(d) of the Act. This time limit has nothing to do with the issuance of show cause notice u/s 148A(b) of the Act & passing of the order u/s 148A(d) of the Act unlike in section 151 of the Act which categorically prescribed the specified authority for sanction for issue of notice for the purposes of both section 148 as well as section 148A of the Act. We are of the opinion that provisions of section 148A proceedings are completely different with that of the 148 proceedings. After the amendment in Finance Act, 2021 the proceedings u/s 148 of the Act can only be commenced after completion of 148A proceedings, however subject to certain exceptions. Before issue of the notice u/s 148 of the Act, the AO shall conduct an enquiry, provide an opportunity of being heard to the assessee by serving SCN and after considering the reply furnished if any, decide, on the basis of material available on record including the reply of the assessee whether or not it is a fit case to issue notice u/s 148 of the Act by passing an Order. Thus the section 148A of the Act is complete code in itself. The contention of the assessee is that the notice issued u/s 148 of the Act dated 19/04/2022 is barred by limitation as per the 1st proviso to amended section 149(1) of the Act. Further section 149 of the Act stipulates the time limit for issue of the notice u/s 148 of the Act & therefore the contention of the Revenue that the order u/s 148A(d) was passed within the stipulated time period prior to the issue of notice u/s 148 is not at all tenable. The procedural compliance with Section 148A, while necessary, cannot validate a notice issued u/s 148 of the Act that is fundamentally flawed due to being issued beyond the statutory period of limitation.

7.9 Now coming to another contention of the Revenue that the notice under section 148A(b) of the Act was issued on 26/03/2022 by which assessee was asked to give response/ objection to the same within 11/04/2022. In response to the same, assessee has filed its objection on 11/04/2022. On a plain reading of 5th proviso to Section 149, the time period of 16 days allowed to assessee to give response/ objection needs to be excluded. Further as per 6th proviso a period of 7 days need to be excluded. The assessing officer has passed the order u/s. 148A(d) on 18/04/2022 and issued the notice u/s. 148 on 19/04/2022, which very well falls within the limitation period. In this regard we are of the **considered opinion** that undisputedly the erstwhile third proviso to amended section 149(1) of the Act allows for the exclusion of the time taken for Section 148A proceedings. However, this exclusion is for *computing the period of limitation as per section 149* of the Act. It does not override the first proviso to Section 149(1) of the Act, which acts as a threshold condition for the applicability of the new regime to old assessment years. If a notice was already time-barred under the old law, the exclusion of time under the 3rd or 4th provisos cannot revive it. The exclusion cannot override the fundamental bar imposed by the first proviso to Section 149(1) of the Act. As stated earlier the first proviso to amended section 149(1) acts as a statutory bar, preventing the issuance of a notice under Section 148 of the Act for the assessment year like AY 2015-16 (which began on or before April 1, 2021) if such notice could not have been issued under the time limits of the old law. We are of the considered opinion that first proviso to section 149(1) of the Act is a restriction and the erstwhile 3rd & 4th Provisos (which allow for exclusion of time for certain events) cannot override this fundamental restriction. The first proviso acts as a gatekeeper. This means that even if there were delays due to assessee's response or court stays, these exclusions cannot revive a notice that is already time-barred by the first proviso. In *Assistant Commissioner of*

Income-tax v. Godrej Industries Ltd. [2024] 160 taxmann.com 13 (Bombay), for AY 2014-15, the High Court held that the validity of a notice must be judged on the law existing on the date of issuance of the Section 148 notice. It emphasized that "*the fifth proviso cannot apply in a case where the first proviso applies because, if a notice under section 148 could not be issued beyond the time period provided in the first proviso, then the fifth proviso could not save such notices*" (Para 15). This means that if the notice is already time-barred under the old regime as per the first proviso, the exclusion of time for Section 148A proceedings under the 3rd proviso or 4th provisos cannot revive it. Further, the Hon'ble Gujarat High Court in the case of *Assistant Commissioner of Income-tax v. Devika Fibres (P.) Ltd.* [2023] 153 taxmann.com 18 (Gujarat) clearly stated that "*the notice which could not have been issued in the old regime period due to becoming time barred as per then operating provision, would also not be permissible to be issued post 01-4-2021*" (Para 5.4.6). Thus, the embargo of the six-year limitation under the old regime continues in the new regime for assessment years prior to 2021-22.

8. Further, under the similar facts & circumstance & for similar AY 2015-16, the Hon'ble Jurisdictional High Court of Karnataka in the case of *Mohammed Yaseen v. Income Tax officer* reported in [2025] 175 taxmann.com 280 (Karnataka) held as under-

"5. As rightly contended by the learned counsel for the petitioner, the material on record discloses that the impugned proceedings is relating to the Assessment Year 2015-16 in respect of the petitioner; however, it is an undisputed fact that the respondents issued impugned notice at Annexure-A2 under Section 148 of the I.T. Act on 01.04.2022, beyond the period of limitation and the same has already been held not to be permissible by the Apex Court in Rajeev Bansal's case (supra), which reads as under:-

"19(e). The Finance Act, ([2021]) 431 ITR (St.) 52) substituted the old regime for reassessment with a new regime. The first proviso to Section 149 does not expressly bar the application of Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. Section 3 of Taxation and Other

Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 applies to the entire Income-Tax Act, including Sections 149 and 151 of the new regime. Once the first proviso to Section 149(1)(b) is read with Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, then all the notices issued between April 1, 2021 and June 30, 2021 pertaining to assessment years 2013-14, 2014-15, 2015-16, 2016-17, and 2017-18 will be within the period of limitation as explained in the tabulation below:

<i>Assessment year (1)</i>	<i>Within 3 years (2)</i>	<i>Expiry of limitation read with TOLA for (3)</i>	<i>Within six years (4)</i>	<i>Expiry of limitation read with TOLA for (4) (5)</i>
2013-2014	31-3-2017	TOLA not applicable	31-3-2020	30-6-2021
2014-2015	31-3-2018	TOLA not applicable	31-3-2021	30-6-2021
2015-2016	31-3-2019	TOLA not applicable	31-3-2022	TOLA not applicable
2016-2017	31-3-2020	30-06-2021	31-3-2023	TOLA not applicable
2017-2018	31-3-2021	30-06-2021	31-3-2024	TOLA not applicable

19(f). The Revenue concedes that for the assessment year 2015-16, all notices issued on or after April 1, 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;

49. The first proviso to Section 149(1)(b) requires the determination of whether the time limit prescribed under Section 149(1)(b) of the old regime continues to exist for the assessment year 2021-22 and before. Resultantly, a notice under Section 148 of the new regime cannot be issued if the period of six years from the end of the relevant assessment year has expired at the time of issuance of the notice. This also ensures that the new time limit of ten-years prescribed under Section 149(1)(b) of the new regime applies prospectively. For example, for the assessment year 2012-13, the ten-year period would have expired on March 31, 2023, while the six-year period expired on March 31, 2019. Without the proviso to Section 149(1)(b) of the new regime, the Revenue could have had the power to reopen assessments for the year 2012-13 if the escaped assessment amounted to Rupees fifty lakhs or more. The proviso limits the retrospective operation of Section 149(1)(b) to protect the interests of the assesses.

6. Subsequently, in Nehal Ashit's case (supra) also, the Apex Court reiterated the very same position and dismissed the appeal filed by the Revenue on the ground that the notice issued after 01.04.2022 was barred by limitation and the impugned proceedings are not permissible beyond period of limitation. In the instant case, it is an undisputed fact that the impugned proceedings is relating to the Assessment Year 2015-16, while the impugned notice under Section 148 of the Act dated 01.04.2022 was issued beyond/after 01.04.2021 which is impermissible in law and barred by limitation and consequently, the impugned orders/notices etc., deserve to be quashed.

7. In the result, I pass the following:-

'ORDER

- (i) Petition is hereby allowed.*
- (ii) The impugned orders/Notices at Annexures-A1, A2, B, C1, D1 and E1 dated 01.04.2022, 01.04.2022, 15.03.2022, 09.03.2022, 27.08.2024 and 27.08.2024 respectively and subsequent orders/notices issued by the 1st respondent are hereby quashed.*

8.1 In view of the above discussions & respectfully following the decision of the Hon'ble Apex Court as well as Jurisdictional High Court, we are of the considered opinion that the notice issued under Section 148 of the Income Tax Act, 1961, on April 19, 2022, for Assessment Year 2015-16, is invalid & bad in law. The first proviso to the substituted Section 149(1) acts as a statutory bar, as the six-year limitation period under the old regime for AY 2015-16 expired on March 31, 2022. The procedural compliance with Section 148A or the exclusion of time under the 3rd or 4th erstwhile provisos cannot override this fundamental jurisdictional defect of limitation. Since we have held the notice dated 19/04/2022 issued under section 148 of the Act to be barred by limitation & therefore the consequent order passed u/s 147 r.w.s 144C(13) of the Act deserve to be quashed. Further, since we have adjudicated the sole legal ground in favour of the assessee, the other grounds raised by the assessee becomes academic.

9. In the result the appeal filed by the assessee is allowed.

Order pronounced in the open court on 6th Feb, 2026

Sd/-
(Prashant Maharishi)
Vice-President

Sd/-
(Keshav Dubey)
Judicial Member

Bangalore,
Dated 6th Feb, 2026.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.