

**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.582/Bang/2025
Assessment Year : 2015-16

Saikat Chinmay Bhattacharya A-74, Maker Kundan Gardens Juhu Rx Opp Ltdo Cinema Santacruz Mumbai 400 049  <b>PAN NO : AADPB5450C</b>	<b>Vs.</b>	DCIT International tax, Circle 1(1) Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	CA Darshit Naik, A.R.
<b>Respondent by</b>	:	Dr. Divya K.J, CIT D.R.

<b>Date of Hearing</b>	:	22.01.2026
<b>Date of Pronouncement</b>	:	16.02.2026

**O R D E R**

**PER KESHAV DUBEY, JUDICIAL MEMBER:**

This Appeal at the instance of the assessee is directed against the order of Deputy Commissioner of Income Tax, Intl. Taxation, Circle-1(1), Bengaluru dated 27/01/2025 vide DIN and Order No: ITBA/AST/S/147/2024-25/1072580233(1) passed u/s. 147 r.w.s 144C(13) of the income Tax Act, 1961 (in short “the Act”) for the AY 2015-16.

**2.** The assessee has raised the following Grounds of appeal:-

*1. The Learned Assessing Officer has erred, in Law and on Facts, in assessing income of your Appellant at Rs.79,24,880/- as against returned income of Rs.2,54,880/-.*

*2. The Learned Assessing Officer erred in making an addition of Rs.76,70,000/- u/s. 69 of the Act.*

3. *The Learned Assessing Officer erred in assuming jurisdiction u/s. 69 of the Act by holding that the Appellant was required to explain the source of the source when there was no statutory requirement to this effect.*

4. *The Learned Assessing Officer erred in disregarding the evidence furnished by Appellant in support of his claim that the said amount of Rs.76,70,000/- was a gift received from his sister.*

5. *The Learned Dispute Resolution Panel erred in rejecting to application filed by the Appellant without appreciate to the facts and circumstances of the matter.*

6. *The Learned Dispute Resolution Panel erred in confirming the action of the Assessing Officer's proposition to make an addition u/s. 69 of the Act.*

7. *Both lower authorities erred in holding that the gift received for assessee's sister has unexplained investment in terms of section 69 of the Act.*

8. *The Appellant craves leave to add, amend, alter or withdraw any or all Grounds of Appeal as may be advised from time to time.*

**3.** The assessee has also raised an additional ground of appeal as follows:-

*1. The Appellant submits that the Notice u/s. 148 and the consequential order are barred by limitation.*

*The appellant craves leave to add to, amend, alter, modify or withdraw any or all the grounds of appeal before or at the time of hearing of the appeal, as he may be advised from time to time.*

**3.1** We have heard the rival submissions on admission of additional grounds. The Lucknow bench of the Hon'ble Allahabad High Court in the case of CIT Vs. Sahara India (2012) 347 ITR 331 held that a legal issue can be raised at any stage but there shall be good reason for admitting the additional ground. In our considered opinion all the facts are already on record and there is no necessity of investigation of any fresh facts for the purpose of the adjudication of above ground. Further we are also of the opinion that the additional ground raised in the present case are purely

legal in nature & goes to the root of the matter & therefore these are critical for a fair adjudication. The Hon'ble Madras High Court in the case of CIT Vs Indian Bank (2015) 230 Taxman 635 (Madras) held that Rule 11 of the I.T. Rules makes it clear that the assessee has the right to raise additional ground and if the same is beneficial to the assessee, the same should be considered by the Tribunal.

**3.2** Further, the Hon'ble Karnataka High Court in the case of Gundathur Thimmappa & Sons vs. CIT, Mysore, reported in (1968) 70 ITR 70 held that when the point raised by the assessee is a point which went to the root of the matter and affected not merely his liability to pay tax but also jurisdiction of the Tribunals and Authorities themselves to subject the amount concerned to tax, the Appellate Tribunal had the discretion to permit point of law to be raised for the first time in appeal because the question went to the root of the case. The Hon'ble Supreme Court in the case of National Thermal Power Co. Ltd. Vs CIT (1998) 229 ITR 383 held that undoubtedly, the Tribunal will have the discretion to allow or not allow a new ground to be raised. But where the Tribunal is only required to consider a question of law arising from the facts which are on record in the assessment proceedings, we fail to see why such a question should not be allowed to be raised when it is necessary to consider that question in order to correctly assess the tax liability of an assessee. Accordingly, we inclined to admit the additional legal grounds as raised by the assessee for the purpose of adjudication as there was no investigation of any fresh facts otherwise on record and these are critical for a fair adjudication of the matter.

**4.** Now the brief facts of the case are that the assessee being an individual non-resident Indian did not file his return of income for the AY 2015-16 under the provisions contained under section 139 of the Act. There was information available on records which

suggest that the income chargeable to tax has escaped assessment in the case of the assessee for the AY 2015-16. Subsequently, the Order u/s. 148A(d) of the Act was passed on **08/04/2022** and accordingly notice u/s. 148 of the Act was issued on the same day. In response to notice u/s.148 of the Act dated 08/04/2022, the assessee filed his return of income on 26/04/2022 declaring total income of Rs.2,54,880/- and claimed refund of Rs.2,46,630/-. Thereafter notices u/s. 142(1) of the Act was issued on various dates and assessee had also furnished his reply.

**4.1** It is seen from the submission of the assessee that the assessee had sold two immovable property (composite property) apartment no.13F & 13G situated at 13<sup>th</sup> floor of tower “Windsor” Merlin Residency, Prince Anwar Sha Road, Ward No.-89, Kolkata for Rs.86,00,000/- & Rs.78,00,000/- jointly to Mr. Pritesh Manubhai Patel and Mrs. Pinky Patel on **12/06/2014**. Further, the assessee had entered agreement towards purchase of residential Flat No.908, Tower C, Oberoi Splendor, Andheri East, Mumbai for Rs.2,85,00,000/- and furnished the payment proof towards payments made during FY 2014-15.

**4.2** The AO noticed that the assessee had not furnished any documentary proof w.r.t source of reinvestment amounting to Rs.76,00,000/- in new property i.e. flat no.908 situated at Oberoi Splendor, Andheri East, Mumbai vide agreement dated 24/09/2014 and accordingly issued show cause notice dated 02/03/2024. In response to the above show cause notice, the assessee by way of written submission stated that the amount of Rs.76,00,000/- was actually from his sister (Parama Bhattacharya) who had gifted him the money since the assessee did not have enough funds to purchase the new property. The assessee also submitted the bank

statement of his sister as proof of the same along with the highlighted entries in the bank statement where the payments were made directly to the immovable property owner/ builder towards the purchase of new immovable property as below: -

Date	Reference	Amount (In Rs.)
20/09/2014	RTGS-Punjab National Bank	14,55,000/-
22/09/2014	RTGS-Vikram Viridi/ Surinder K Viridi	62,00,000/-
23/09/2014	Neft- Vikram H Viridi	15,000/-
<b>Total</b>		<b>76,00,000/-</b>

**4.3** The AO however, held that the assessee has failed to furnish the source of unexplained investment of Rs.76,70,000/- as the assessee failed to furnished proof/ details like-

1. Receipts from the builder towards the above said payments.
2. Copy of registered deed w.r.t transfer of above said amounts.
3. Source of income of his sister towards the above said income.
4. Return of income of his sister etc.

As the assessee is an eligible assessee, the AO passed an draft assessment order on 09/03/2024 proposing to add Rs.76,70,000/- under the head income from other sources as unexplained investment u/s. 69 of the Act for the AY 2015-16.

**4.4** Aggrieved by the draft order, the assessee filed objection with the Id. DRP-2, Bangalore by submitting that the amount of Rs.76,70,000/- was a gift received from his sister Mrs. Parama Bhattacharya and also submitted the HDFC Bank account statement and confirmation letter from his sister. The DRP-2 on examining the said bank account found that the account had periodic cash deposits and apart from these cash deposits, there are hardly any transactions in the account which clearly shows that the sister did not have credit worthiness to transfer an amount of

Rs.76,70,000/- & accordingly affirm the order of the AO. Thereafter, the AO, based on the direction of Id. DRP-2, Bangalore an amount of Rs.76,70,000/- was added to the total income of the assessee under the head income from other sources as unexplained investment as per the provisions of section 69 of the Act for the AY 2015-16. The AO concluded the assessment proceedings on a total assessed income of Rs.79,24,880/- as detailed below:-

<b>Particulars</b>	<b>Amount (In Rs.)</b>
Income as per return of income filed u/s. 139	Not Filed
Income as per return of income filed u/s. 148	2,54,880/-
Addition: Unexplained Investment as per the provisions of Sec. 69 of the I.T. Act, 1961	76,70,000/-
<b>Assessed Income</b>	<b>79,24,880/-</b>

**5.** Aggrieved by the assessment order passed u/s 147 r.w.s 144C(13) of the Act dated 27/01/2025, the assessee has filed the present appeal before this Tribunal. The assessee has also filed a paper book containing therein the copy of the notice u/s 148A(b) of the Act, Copy of the order u/s 148A(d) of the Act, Copy of notice u/s 148 of the Act along with case laws relied upon by the assessee.

**6.** Before us, the learned AR of the assessee at the outset by raising the additional legal ground vehemently submitted that the notice issued u/s. 148 of the Act on 08/04/2022 for the AY 2015-16 is barred by limitation as per the 1<sup>st</sup> proviso to section 149(1) of the Act and accordingly subsequent proceedings including the re-assessment order passed on 27/01/2025 are non-est and void-ab-initio.

**7.** The Id. CIT DR on the other hand vehemently supported the order of the AO and submitted that in terms of 5<sup>th</sup> and 6<sup>th</sup> provisos to section 149(1) of the Act, the order u/s 148A(d) of the Act as well

as the notice issued u/s. 148 of the Act both dated 08/04/2022 were well within the prescribed timeline. Further, the ld. DR submitted that the AO had initiated the proceedings by issuing the notice under clause (b) of section 148A of the Act on 25/03/2022 which was well before 31/03/2022 and hence the subsequent order passed u/s 148A(d) of the Act and the notice issued u/s 148 of the Act are well within the time.

**8.** We have heard the rival submission and perused the material available on record. Undisputedly, the present case relates to AY 2015-16. It is also an undisputed fact that the notice u/s. 148A(b) of the Act was issued on 25/03/2022 and accordingly the order u/s. 148A(d) of the Act was passed on 08/04/2022. Thereafter, the notice u/s. 148 of the Act was issued for the AY 2015-16 on the same day i.e. on 08/04/2022. It is also an undisputed fact that the last date for issuing the notice u/s 148 of the Act under erstwhile section 149(1)(b) of the for the AY 2015-16 was 31/03/2022 (6 years from the end of the assessment year). Now, it is apposite here to note down the chronological date of event for a better appreciation of fact which are detailed below-

<b>Particulars</b>	<b>Date</b>	<b>Paper Book reference</b>
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)	25/03/2022	
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)	01/04/2022	

Date of response by the Assessee	Not Filed	
Approval by Specified Authority- PCCIT (IT), Delhi as cited in the order u/s. 148A(d)	08/04/2022	
Date of Order u/s. 148A(d)	08/04/2022	
Issuance of Notice u/s. 148	<b>08/04/2022</b>	

Thus, the core issue revolves around whether the issuance of the notice under section 148 of the Act on April 08, 2022, for AY 2015-16, falls within the permissible time limits or not?

**8.1** 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 1<sup>st</sup> 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 31<sup>st</sup> 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.*

**8.2** On going through the above provisions, we take note of the fact that for the AY 2015-16, the old 6 years time 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 08, 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 08, 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 3<sup>rd</sup> & 4<sup>th</sup> 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 3<sup>rd</sup> & 4<sup>th</sup> 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. In the present case as the notice in question was issued on **April 08, 2022**, which is *after* March 31, 2022 and therefore 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.

**8.3** 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, -  
(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....."*

**8.4** 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).

**8.5** Now coming to the contention of the Revenue that the AO had initiated the proceedings by issuing the notice under clause (b) of section 148A of the Act well before 31/03/2022 i.e. on 25/03/2022 and hence the subsequent order passed u/s 148A(d) of the Act and the notice issued u/s 148 of the Act both dated 08/04/2022 are 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 issuing of the notice u/s 148A(b) 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 a complete code in itself. In the present case, the contention of the assessee is that the notice issued u/s 148 of the Act dated 08/04/2022 is barred by limitation as per the 1<sup>st</sup> 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 proceedings initiated by the issuance of show cause notice u/s 148A(b) of the Act 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.

**8.6** Now coming to another contention of the Revenue that the notice under section 148A(b) of the Act was issued on 25/03/2022 by which assessee was asked to give response/objection to the same within 01/04/2022. In response to the same, assessee did not file any objection. On a plain reading of 5<sup>th</sup> proviso

to Section 149, the time period of 7 days allowed to assessee to give response/ objection needs to be excluded. Further as per 6<sup>th</sup> proviso a period of 7 days also need to be excluded. The assessing officer has passed the order u/s. 148A(d) on 08/04/2022 and issued the notice u/s. 148 on 08/04/2022, 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 3<sup>rd</sup> or 4<sup>th</sup> 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 & act as a gate keeper and the erstwhile 3<sup>rd</sup> & 4<sup>th</sup> Provisos (which allow for exclusion of time for certain events) cannot override this fundamental restriction. 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 4<sup>th</sup> 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.

9. It is apposite here to mention that under the similar facts & circumstance & for the 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)** has 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>
<i>2013-2014</i>	<i>31-3-2017</i>	<i>TOLA not applicable</i>	<i>31-3-2020</i>	<i>30-6-2021</i>
<i>2014-2015</i>	<i>31-3-2018</i>	<i>TOLA not applicable</i>	<i>31-3-2021</i>	<i>30-6-2021</i>
<i>2015-2016</i>	<i>31-3-2019</i>	<i>TOLA not applicable</i>	<i>31-3-2022</i>	<i>TOLA not applicable</i>
<i>2016-2017</i>	<i>31-3-2020</i>	<i>30-06-2021</i>	<i>31-3-2023</i>	<i>TOLA not applicable</i>
<i>2017-2018</i>	<i>31-3-2021</i>	<i>30-06-2021</i>	<i>31-3-2024</i>	<i>TOLA not applicable</i>

*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 1<sup>st</sup> respondent are hereby quashed."*

**9.1.** Further, the Hon'ble High Court of Karnataka in the case of **Tarish Investment and Trading Company (P) Ltd v. Union of India reported in [2025] 179 taxmann.com 198 (Karnataka)** has under the similar facts & circumstances but for the AY 2017-18 also taken a similar view. The relevant paragraph of the said judgment is reproduced below-

**"2.** The petitioner in the subject petition calls in question an order passed by the 2<sup>nd</sup> respondent under Section 148A(d) of the Income Tax Act and consequent notices so issued to the petitioner under section 148 of the Income Tax Act, 1961. The notice reads as follows:

*"Notice under section 148 of the Income-tax Act, 1961*

Sir/Madam/M/s.

1. I have the following information in your case or in the case of the person in respect of which you are assessable under the Income tax Act, 1961 (here in alter referred to as "the Act") for Assessment Year 2017-18

• information in accordance with the risk management strategy formulated in this regard

suggesting that income chargeable to tax has escaped assessment within the meaning of section 147 of the Act. Order under sub-section (d) of section 148A of the Act has been passed in such case *vide* DIN ITBA/AST/F/148A/2024-25/1064704419(1) dated 07/05/2024 and annexed herewith for reference,

2. I, therefore, propose to assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for the Assessment Year 2017-18 and I, hereby, require you to furnish, within a period of three months from the end of month in which this notice is issued, a return in the prescribed form for the Assessment Year 2017-18.

Note:- Please note that any return of income, required to be furnished by you under this section and furnished beyond the period allowed shall not be deemed to be a return under section 139 of the Act. (Proviso 3 to Section 148)

NITHAN RAJ T.N.

CIRCLE 7(1)(1), BANGALORE"

3. The notice itself indicates that it is issued for the Assessment Year 2017-18 and is admittedly issued on 7.5.2024. Learned counsel appearing for the petitioner submits that the notice is barred by limitation, as the limitation prescribed under Section 148 is for a period of six years from the date of end of the Financial Year of the Assessment Year. Admittedly, Financial Year of Assessment Year, 2017-18 comes to an end on 31.03.2018 and the limitation would cap at 31.03.2024.

4. Learned counsel for the petitioner would submit that the issue in the lis stands covered by the three Judge Bench of the Apex Court in the case of *UOI v. Rajeev Bansal* [\[2024\] 167 taxmann.com 70/301 Taxman 238/469 ITR 46 \(SC\)](#), in which the Apex Court at Paras 49, 53 and 60 has held as follows:

"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 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 2012-2013 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.

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. Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 can extend the time limit till June 31, 2021

60. The above principles can be applied as follows to the factual situation in the present appeals: (i) The Finance Act, 2021 ([2021] 432 ITR (St.) 52) substituted Sections 147 to 151 of the Income Tax Act with effect from April 1, 2021; (ii) sections 147 to 151 of the old law ceased to operate from April 1, 2021; (iii) after April 1, 2021, any reference to the Income Tax Act means the Income Tax Act as amended by the Finance Act 2021; (iv) the time limits prescribed for issuing reassessment notices under section 149 operate retrospectively for three years for all situations and six years in case the escaped assessment amounts to or is likely to amount to more than rupees fifty lakhs."

(Emphasis supplied)

5. The High Court of Delhi in two of the judgments has followed the said judgment of the Apex Court in Rajeev Bansal supra. In *Sheetal International (P.) Ltd. v. Chief CIT* [\[2024\] 168 taxmann.com 308 \(Delhi\)](#), it is held as under:

"1. Issue notice.

2. Learned counsel appearing for the respondents accepts notice.

3. The petitioner has filed the present petition, *inter alia*, impugning an order dated 01.05.2024 (hereafter the impugned order) issued under Section 148A(d) of the Income Tax Act, 1961 (hereafter the Act) for the assessment year (AY) 2017-18 as well as the notice dated 01.05.2024 issued under Section 148 of the Act.

4. The petitioner contends that the said notice was issued beyond the period of limitation as prescribed in first proviso to Section 149(1) of the Act.

5. The learned counsel appearing for the petitioner submits that the issue stands covered by the decision of this Court in *Manju Somani v. Income Tax Officer* [\[2024\] 165 taxmann.com 675/300 Taxman 516/466 ITR 758 \(Delhi\)](#); Neutral Citation: 2024:DHC:5411-DB.

6. It is also relevant to note that the Supreme Court in a recent decision of *Union of India v. Rajeev Bansal*: 2024 SCC OnLine SC 2693/[\[2024\] 167 taxmann.com 70 \(SC\)](#) (SC) has observed as under:

"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.

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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 assessee."

7. In view of the above, the present petition is allowed. The impugned order dated 01.05.2024 as well as the notice issued under Section 148 in respect of the AY 2017-18 are set aside."

**9.2** In view of the above discussions & respectfully following the decisions 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 08, 2022, for Assessment Year 2015-16, is invalid & barred by time. 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 3<sup>rd</sup> or 4<sup>th</sup> erstwhile provisos cannot override this fundamental jurisdictional defect of limitation. Since we have held the notice dated 08/04/2022 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 dated 27/01/2025 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.

**10. In the result the appeal filed by the assessee is allowed.**

Order pronounced in the open court on 16<sup>th</sup> Feb, 2026

**Sd/-**  
**(Prashant Maharishi)**  
**Vice President**

**Sd/-**  
**(Keshav Dubey)**  
**Judicial Member**

Bangalore,  
Dated 16<sup>th</sup> 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.**