

**आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक**

**IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER**

**AND**

**SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER**

**आयकर अपील सं/ITA No.193/CTK/2025**

**(निर्धारण वर्ष / Assessment Years : 2018-2019)**

<b>Sabiruddin Ahammad,</b> At-Muslim Sahi, PO/PS-Balugaon, Dist : Khordha-752030	Vs	<b>The Pr.CIT, Bhubaneswar-1</b>
<b>PAN No. :AQQPA 3055 R</b>		
<b>(अपीलार्थी /Appellant)</b>	..	<b>(प्रत्यर्थी / Respondent)</b>
<b>निर्धारिती की ओर से /Assessee by</b>	:	Shri S.K.Sarangi, AR
<b>राजस्व की ओर से /Revenue by</b>	:	Shri Asim Kumar Chakraborty, CIT-DR
<b>सुनवाई की तारीख / Date of Hearing</b>	:	17/02/2026
<b>घोषणा की तारीख/Date of Pronouncement</b>	:	17/02/2026

**आदेश / O R D E R**

**Per Bench :**

This is an appeal filed by the assessee against the order of the Ld.PCIT, Bhubaneswar-1 u/s.263 of the Act, dated 06.02.2025 for the assessment year 2018-2019.

2. It was submitted by the Ld. AR that the original proceeding was an order passed u/s.147 r.w.s 144 of the Act dated 09/03/2023. It was further submission that this assessment order was subject matter of revision u/s.263 of the Act. It was submission that in the appeal before the Tribunal the assessee is challenging the original assessment order itself insofar as the reopening is invalid. It was submission that the notice issued u/s.148A(b) of the Act is dated 12/03/2022 and the time given for responding is 19/03/2022. It was the submission that the statute requires that the notice should give at least 7 days' time. It was the submission that the said notice did not give the assessee the requisite 7 days' time and that

the assessment proceedings were ex-parte proceedings. It was the submission that as seven clear days has not been granted to the assessee, in view of the decision of the Hon'ble Jharkhand High Court in the case of Satish Kumar in W.P.(T) No.2640 of 2023, dated 28.08.2023, the clear seven days having not been given to the assessee, the notice is liable to be treated as invalid. It was the submission that said decision of the Hon'ble Jharkhand High Court has also been followed by the ITAT Ranchi Bench of the Tribunal in the case of Mantosh Kumar, passed in ITA No.80/Ran/2024, dated 18.08.2025, wherein the coordinate bench of the Tribunal has held in paras 3 to 7 as follows :-

*3. It was submitted by Id AR that the assessee is challenging the notice u/s.148A(b) of the Act dated 14.3.2022, wherein, the assessee has been asked to file his response by 21.3.2022. It was the submission that this order is invalid insofar as the assessee has not been given seven days time as required under the provisions of section 148A(b) of the Act. The notice u/s.148A(b) of the Act is as follows:*

*“Notice under clause (b) of Section 148A of the Income Tax Act, 1961. Sir/Madam/M.s Whereas I have information which suggests that income chargeable to tax for the assessment year 2018-19 has escaped assessment within the meaning of section 147 of the Income tax Act, 1961. The details of the information and enquiry, if conducted, are enclosed with this notice in Annexure-A.*

*2. You are requested to show cause as to why, in view of the details contained in Annexure-A, a notice u/s.148 of the Income tax Act, 1961 should not be issued.*

*3. You may, to the extent technologically, feasible, submit your response with supporting documents (if any) on the above mentioned issues electronically in e-proceedings facility through your account in-e-filing portal at your convenience on or before 21.3.2022.*

*4. This notice is being issued after obtaining the prior approval of the PCIT, Dhanbad, accorded on date 11.3.2022 vide reference No.100000029037826.”*

4. It was the submission that the Co-ordinate Bench of this Tribunal in the case of *Imran Ahmad vs ITO, Giridih* in ITA No.357/Ran/2024 order dated 18.12.2024 relying upon the decision of Hon'ble Jurisdictional High Court in the case of *Satish Kumar vs Pr. CIT* passed I n W.P.(T) No.2640 of 2023 dated 28.8.2023, held as follows:

*"5. The entire periphery and ambit of the legal ground is confined to the interpretation of expression "being not less than 7 days..." That as demonstrated by the assessee the notice dated 12th March, 2022 u/s.148A of the Act states that the assessee shall submit the response with supporting documents on or before 18th March, 2022. Therefore, as per section 148A(b) of the Act, excluding these two das ie. Date of issuance of the notice and the date on when response is sought from the assessee, a clear 7 days time should have been provided to the assessee as has been held by the Hon'ble Jurisdictional High Court in the case of *Satish Kumar vs Pr. CIT* passed I n W.P.(T) No.2640 of 2023 dated 28.8.2023. The relevant part of the judgment is extracted as follows:*

*7. To decide the lis involved in the instant application it is necessary to peruse the provisions of the Act which governs the issue in hand, which is quoted herein below:-*

*Section 148A(b) of the I.T. Act.*

*"148A (b) provide an opportunity of being heard to the assessee, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a);"*

*From bare perusal of Section 148A(b) it appears that minimum 7 days is required to be given to the Assessee for filing reply. This 7 day is to be calculated by ignoring the date of issue and the last date of submission. In other words, minimum 7 clear days has to be provided to the Assessee for filing reply.*

*In this regard reference may be made to the case of *Pioneer Motors (Private )Ltd. Vs Muncipal Council, Nagercoil* reported in AIR 1967 sc 684, wherein at paragraph 8 & 9, the Hon'ble Apex Court has deliberated the issue with regard to counting of dates.*

*“8. The words “not being less than one month” do imply that clear one month’s notice was necessary to be given that is both the first day and the last day of the month had to be excluded.*

*“When..... 'not less than' so many days are to intervene, both the terminal days are excluded from the computation”.*

*9. .... In every case the words have to be construed in the context taking into consideration the language used and the object to be achieved. As we have said above, the use of the words "not being less than one month" implies the giving of a clear month excluding both the first and the last day of the month Emphasis supplied.*

*6. Considering the aforesaid judgment as per the notice issued to the assessee u/s.148A of the Act, the assessee gets only five clear days for response i.e. excluding the date of issuance of the notice and the date on which the response is sought for. This is, therefore, violative of the mandate as prescribed in the Act and also as per the principles laid down by the Hon'ble High Court (supra). Therefore, on this score alone, the notice u/s.148A(b) of the Act is hereby quashed and set aside and all the subsequent proceedings becomes a nullity and non est in the eyes of law.”*

*5. It was the submission that as in this notice seven days time excluding the date of issue of notice and the date of response has not been provided to the assessee, the notice u/s.148A (b) is liable to be quashed. 6. In reply, Id Sr DR vehemently supported the order of the Assessing Officer.*

*7. We have considered the rival submissions. As it is noticed that the notice issued u/s.148A(b) of the Act has not been provided to the assessee the clear seven days time for responding the said notice, respectfully following the decision of the Co-ordinate Bench in the case of Imran Ahmad (supra), wherein, the Bench has followed the judgment of Hon'ble Jurisdictional High Court in the case of Satish Kumar(supra), the notice issued u/s.148A(b) of the Act stands quashed. Consequently, the assessment order passed u/s 147 r.w.s 144 of the Act stands quashed*

3. The Ld. AR also drew our attention to the notice issued u/s.148A(b) of the Act, which reads as follows:-

Annexure-1



GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
INCOME TAX DEPARTMENT  
OFFICE OF THE INCOME TAX  
OFFICER  
ITO, WARD KHURDA

To, SABIRUDDIN AHAMMAD MUSLIM SAHI PO AND PS BALUGAON , DT KHORDHA 752030 , Orissa India	
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PAN: AQQPA3055R	A.Y: 2018-19	Dated: 12/03/2022	DIN & Notice No: ITBA/AST/F/148A(SCN)/2021- 22/1040630399(1)
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**Notice under clause(b) of section 148A of the Income-tax Act, 1961**

Sir/Madam/M/s

Whereas I have information which suggests that income chargeable to tax for the Assessment Year 2018-19 has escaped assessment within the meaning of section 147 of the Income-tax Act, 1961. The details of the information and enquiry, if conducted, are enclosed with this notice in Annexure A.

- You are required to show-cause as to why, in view of the details contained in Annexure A, a notice section 148 of the Income tax Act, 1961 should not be issued.
- You may, to the extent technologically feasible, submit your response with supporting documents (if any) on the above mentioned issues electronically in 'e-proceeding' facility through your account in e-filing portal at your convenience on or before 19/03/2022.
- This notice is being issued after obtaining the prior approval of the **PCIT, Bhubaneswar-1** accorded on date **11/03/2022** vide Reference No. **10000028883008**.

SUMAN SUNDAR SAHOO  
ITO, WARD KHURDA

Note: If digitally signed, the date of digital signature may be taken as date of document.  
INCOME TAX OFFICE, Income Tax Office, Sri Ram Nagar, near Telephone Bhawan, KHURDA, Orissa, 752055  
Email: KHURDA.ITO@INCOMETAX.GOV.IN,

Note:- The website address of the e-filing portal has been changed from [www.incometaxindiaefiling.gov.in](http://www.incometaxindiaefiling.gov.in) to [www.incometax.gov.in](http://www.incometax.gov.in)  
\* DIN: Document identification No.

4. It was submission that the Hon'ble Jurisdictional High Court in the case of Badal Prakash Jindal, HUF in ITA Nos.8,7,9 &10 of 2023, dated 02/03/2023 has categorically held that the assessee is fully entitled to challenge the original proceedings even in the appeal on the revisional order and similar view has been taken by the coordinate bench of this

Tribunal Kolkata "A" Bench in the case of Ankur Dealcom Pvt Limited, in ITA 2204/KOL/2025, dated 11/12/2025. It was the submission that as the notice issued u/s.148A(b) of the Act was an invalid notice, the original assessment order itself is liable to be quashed and also the consequential revisional proceedings.

5. In reply, the Ld.CIT DR drew our attention to the decision of the Hon'ble Supreme Court in the case of Anuj Ghuliani vs. ITO, reported in [2025] 478 ITR 528 (SC) as also the decision of the Hon'ble Delhi High Court in the case of Anuj Ghuliani, reported in 478 ITR 526 (Delhi-HC) to submit that wherein the Hon'ble Delhi High Court has categorically held that the proceedings are to be reconsidered by the AO after considering the belated reply filed by the assessee in response to the notice issued u/s.148A(b) of the Act. The Hon'ble Delhi High Court has held as follows:-

*6. In view of the above, the impugned order dated 31.08.2024 passed under Section 148A(d) of the Act as well as the notice dated 31.08.2024 issued under Section 148 of the Act are set aside. The AO shall consider the reply already filed by the petitioner on 27.08.2024 and pass an appropriate order within a period of four weeks. In the event the AO considers that it is a fit case for issuing notice under Section 148 of the Act, necessary approval shall be obtained from the concerned Chief Commissioner of Income Tax as was the requirement at the material time.*

6. It was the submission that the liberty must be granted to the revenue to initiate proceedings, if any, permissible under law.

7. We have considered the rival submission. A perusal of the facts in the present case clearly shows that clear 7 days has not been granted to the assessee in respect of the notice issued u/s.148A(b) of the Act. This notice is directly in violation of the law as laid down by the Hon'ble High

Court of Jharkhand in the case of Satish Kumar referred to supra. It is also an admitted fact that the impugned proceedings before us are against the revisionary order passed u/s.263 of the Act by the Ld.PCIT,Bhubaneswar-1. The Hon'ble Jurisdictional High Court of Orissa in the case of Badal Prakash Jindal, HUF, referred to supra, admittedly, permits the assessee to challenge the original proceedings even in the appeal against the revisionary proceedings. A perusal of the decision of the Hon'ble Delhi High Court in the case of Anuj Ghuliani (supra), shows that the issue therein was not a challenge to the time limit of 7 days. The issue was "conducting enquiry, providing opportunity before issue of notice - initial notice allowing 5 days to reply - minimum 7 days required to be granted under the statute for the assessee to respond - assessee filing reply after 5 days - order and notice set aside with the direction to the AO to consider the reply filed by the assessee and passed appropriate orders." The issue before the Hon'ble Delhi High Court admittedly is not in respect of not granting the assessee the 7 days required under the statute in respect of the notice issued u/s.148A(b) of the Act. That was a case where the assessee has claimed the adequate opportunity having not been provided. The Hon'ble Delhi High Court in the facts of that case has held that another opportunity should be granted to respond to the notice and the delayed response is to be considered. This view of the Hon'ble Delhi High Court has admittedly been upheld by the Hon'ble Supreme Court. These are admittedly not the facts in the appeal before us. As it is noticed that the issue of the limitation provided in the notice u/s.148A(b) of the Act of providing minimum 7 days

has been violated and the issue is fully covered by the decision of the Hon'ble High Court of Jharkhand in the case of Satish Kumar, referred to supra, respectfully following the decision of the Hon'ble Jharkhand High Court in the case of Satish Kumar, referred to supra, the notice issued u/s.148A(b) of the Act is held to be invalid and consequently quashed. Respectfully following the decision of the Hon'ble Orissa High Court in the case of Badal Prakash Jindal, HUF referred to supra, as the original proceedings being the original assessment order itself stands quashed, the revisionary proceedings initiated and the orders passed u/s.263 of the Act would also stands quashed.

8. In the result, appeal of the assessee is allowed.

Order dictated and pronounced in the open court on 17/02/2026.

**Sd/-**  
**(MADHUSUDAN SAWDIA)**

लेखा सदस्य/ **ACCOUNTANT MEMBER**

**Sd/-**  
**(GEORGE MATHAN)**

न्यायिक सदस्य / **JUDICIAL MEMBER**

दिनांक Dated 17/02/2026

*Prakash Kumar Mishra, Sr.P.S.*

**आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant -
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

**(Assistant Registrar)**

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack