

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“SMC” BENCH, MUMBAI**  
**BEFORE SMT. BEENA PILLAI (JUDICIAL MEMBER)**

**ITA No.6344 & 6345/Mum/2025**  
**Assessment Year: 2017-18 & 2018-19**

<b>Anju Purohit</b> 25, Seema Vaibhav, Thangewadi, Near St. Thomas School, Kalyan West, Kalyan city H.O, Thane 421301  <b>PAN:AKSPP9232H</b> <b>(Appellant)</b>	Vs.	<b>Income Tax Officer,</b> <b>Ward 3(1), Kalyan</b> Rani Mansion, Murbad Road, Kalyan 421301  <b>(Respondent)</b>
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<b>Appellant by</b>	Ms Rutuja Pawar Ms. Saloni Sankhe
<b>Respondent by</b>	Shri Brajendra Kumar SR. DR

<b>Date of Hearing</b>	14/01/2026
<b>Date of Pronouncement</b>	17/02/2026

**ORDER**

**Per: Smt. Beena Pillai, J.M.:**

The present appeals filed by the assessee arises out of separate orders dated 04.09.2025 passed by NFAC, Delhi for AY 2017-18 and 2018 19.

**Brief facts of the case are as under:-**

**2.** Assessee is an individual and has a proprietorship concern with the trade name M/s. Shree Balaji Enterprises engaged in the business of trading in chemical products.

### **Assessment Year: 2017-18**

Assessee has filed the original return of income on 29.03.2018 for A.Y. 2017-18 declaring the total income amounting to Rs.2,76,740/-. This return of income was processed and subsequently, notices u/s. 148 was issued for reopening of assessment on the basis of the information received from DCIT Central Circle 1(1) wherein it was stated that, M/s Shiroya Builder has paid interest to the various parties in cheque as well as in cash and in that list of parties the name of the assessee was mentioned.

**2.1.** The assessee filed the return of income against the notice issued u/s 148 of Act declaring income of Rs. 2,76,740/- as declared in original return of income. Further the assessee submitted the details along with supporting documents and stated the, the loan was given to M/s. Siroya Investment during the financial year 2014-15 and 2015-16 and the loan party has paid interest during the year 2014-15 and 2015-16 which was duly offered for the taxation, however from the financial year 2016-17 the loanee did not pay the interest and thus, the same was not offered to the return of income as the same was not received. The assessee relied on the bank statement to justify its contention. The assessee contended that, if the Interest amount is paid in cheque the same would have reflected in the bank statement, however no such amount as mentioned by the loanee party during the course survey proceedings is received in the bank account and thereby the reason for reopening of case would arise.

**2.2.** It is submitted that, the assessee submitted all bank statements wherein no such amount was received and further

submitted the ledger books of loanee party wherein no such payment was made. Thus, it was submitted that, the question of interest paid doesn't arise.

**2.3.** Ld. AO after considering the submissions of the assessee was of the opinion that, assessee did not show interest income in the return filed for the year under consideration. Accordingly, the show cause notice issued to the assessee filed submissions. On perusal of the submissions the Ld. AO noted that, assessee gave loan to Shiroya Developers in FY 2014-15 relevant to AY 2015-16 amounting to Rs.5,00,000/- and in FY 2015-16 amounting to Rs.7,00,000/- from her PNB Bank Account. However, the denial of the assessee that she had not received any interest income during the FY 2017-18 is not acceptable.

**2.4.** During the course of survey proceedings, the statement of Shri BM Purohit, chief accountant of M/s Shiroya Developers was recorded u/s 131 of the IT Act. While going through the papers, it was noted by the Ld.AO that, the loanee availed loan from various parties Shri B M Purohit in question No.4 of the statement dated 09.03.2018 was asked to provide the name of parties whom loan was taken. In reply to question No. 4 of the statement, Shri B M Purohit stated that the loan was taken from 10 person/party and interest @ 24% per annum was paid for different periods and the details of the same were submitted.

**2.5.** The Ld. AO thus, was of the opinion that assessee received interest of Rs.2,91,500/- (Rs.1,82,000/-+Rs.1,09,500/-) however,

the same was not disclosed. The Ld. AO thus, treated Rs. 2,91,500/- to be undisclosed money u/s. 69A of the Act.

**2.5.1.** On identical facts, addition was made in the hands of the assessee for AY 2018-19 addition was of Rs. 77,584/- on the identical findings and observations.

Aggrieved by the order of the Ld. AO, assessee preferred appeal before the Ld. CIT(A).

**3.** The Ld.CIT(A) after considering various evidences and submissions of the assessee upheld the addition made by the Ld. AO. For both the years under consideration.

Aggrieved by the order of the Ld. CIT(A) assessee is in appeal before this *Tribunal* for both assessment years under consideration.

### **Assessment Year 2017-18:**

**4.** Ld. AR vide additional ground filed on 07.01.2026 raised following legal issues for both the years under consideration.

*“1. That on the facts and in the circumstances of the case of the appellant and in law Ld. NFAC has erred in ignoring the fact that the Ld. Assessing Officer has re-opened the appellant's case beyond a period of three years without obtaining proper approval as prescribed u/s. 151 of the Act for A.Y. 2017-18.*

*2. That on the facts and in the circumstances of the case of the appellant and in law Ld. NFAC has erred in upholding the re-opening even though the alleged escaped income is below Rs. 50,00,000/- as stipulated u/s. 149(1)(b) of the Act for A.Y. 2017-18.*

*3. That on the facts and in the circumstances of the case of the appellant and in law Ld. NFAC has erred in upholding the re-opening u/s. 147 r.w.s. 144B of the Act as being time-barring as per judgement of the Hon'ble Supreme Court in Union of India vs. Rajeev Bansal [2024] 167 taxmann.com 70 (SC).*

4. That on the facts and in the circumstances of the case of the appellant and in law Ld. NFAC has erred in not considering the fact that the Ld. Assessing Officer failed to indicate the specific column (tick) under which he had information to issue the notice u/s. 148 of the Act for A.Y. 2017-18.

5. That on the facts and in the circumstances of the case of the appellant and in law Ld. NFAC has failed to adhere with an invalid sanction/approval issued u/s. 151 of the Act bearing no DIN and no date which is contrary to the CBDT Circular bearing No. 19/2019 dated 14.08.2019.”

**4.1.** She submitted that, the reopening of the assessment u/s. 148 is bad in law as it does not satisfy the required criteria. She submitted that, the first notice u/s. 148 was issued on 30.07.2021 beyond 3 years and notice u/s. 148A(b) was issued to the assessee on 27.05.2022. The Ld. AR submitted that, the income that is said to have escaped assessment in the hands of the assessee is Rs. 2,91,500/- as per the order passed u/s. 148A(d).

**4.2.** It is submitted that, the authority who sanctioned the proceedings issuance of notice u/s 148A(d) and u/s 148 is Principle Commissioner of Income-tax Act - 1 Thane. She vehemently submitted that, as per the decision of *Hon'ble Supreme Court* in the case of *Union of India vs Rajiv Bansal* reported in (2024) 167 *taxmann.com* 17 under the new regime reassessment notice could not be issued without taking approval of the appropriate authority as per Section 151 of the Act. She also contended that notice u/s 148 of the new regime could be issued beyond 3 years, if the income chargeable to tax that escaped assessment is less than 50 Lacs. She referred to categorical observations of *Hon'ble Supreme Court* in para 49 to 53.

**5.** Ld. AR submitted that, in the present facts of the case impugned notice dated 30.07.2021 issued for AY 2017-18 is beyond 3 years and the income noted to have been escaped assessment as per order passed u/s. 148A(d) is only Rs. 2,91,500/-. She also submitted that, the notice u/s 148 has been issued beyond 3 years by taking approval from Ld.PCIT-1, Thane. Ld. AR thus, submitted that, the impugned notice deserves to be quashed as it does not satisfy the requirement under the law.

**5.1.** On the contrary, the Ld. DR relied on the order passed by the authority below.

We have perused the submissions advance by both sides in the light of the records place before us.

**6.** It is noted that, the submissions of the Ld. AR in respect of additional grounds raised deserves to be appreciated. This issue goes to the route cause of the case and, therefore, deserves to be considered at the threshold.

Admittedly, the notice dated 30.07.2021 is passed beyond the period of 3 years for AY 2017-18 and the income that has alleged to have escaped assessment is Rs. 2,91,500/-. The observation of *Hon'ble Supreme court* on this aspect are reproduced as under:

*“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 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 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 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 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.”*

**7.** Based on the above discussion, this *Tribunal* is of the opinion that, the impugned notice dated 26.07.2022 deserves to be quashed as it do not satisfy the necessary requirements under the statute as per Section 149(1)(b) and Section 151 of the new regime.

**Accordingly, legal grounds raised by the assessee in the application for additional grounds stands allowed.**

**7.1.** As this *Tribunal* quashed the impugned notice dated 26.07.2022 being bad in law, as the consequence the assessment proceedings and the addition made therein also deserves to be quash. Thus the grounds raised by the assessee challenging the impugned addition becomes academic at this stage.

**Assessment Year 2018-19:**

**8.** The Ld. AR submitted that the assessee had filed the return of income for the year under consideration declaring income of ₹3,14,700/- on a presumptive basis under section 44AD of the Act. It was submitted that the assessee had advanced a loan to M/s. Shiroya Developers amounting to ₹5,00,000/- during F.Y. 2014–15 and a further sum of ₹7,00,000/- during F.Y. 2015–16. The interest on the said loan was duly received and offered to tax in the assessment years relevant to F.Ys. 2014–15 and 2015–16.

**8.1.** The Ld. AR submitted that from F.Y. 2016–17 relevant to A.Y. 2017–18 onwards, the borrower stopped making any interest payment. Accordingly, no interest income accrued to the assessee for A.Y. 2017–18 and A.Y. 2018–19. This fact is supported by the bank statements filed before the Ld. AO as well as before the Ld. CIT(A). It was further submitted that the alleged credit of ₹77,584/-, stated to be income that had escaped assessment for A.Y. 2018–19, does not appear in the bank statements of the assessee for the relevant period.

**8.2.** The Ld. AR submitted that the Ld. AO has placed sole reliance on the statement of third parties recorded during survey proceedings under section 133A of the Act. It was contended that there is no corroborative evidence brought on record by the Department to establish that any amount was paid by the borrower to the assessee, either in cash or otherwise. Referring to the notice issued under section 148, the Ld. AR submitted that the cheque amount of ₹1,82,000/- and the cash amount of ₹1,09,500/- referred to in Question No. 4 of the statement had already been offered to tax. A reconciliation of interest received from M/s. Shiroya Developers (also referred to as Siroya Investment) was furnished, the details of which are reproduced as under:

**Interest received from M/s. Siroya Developers/Siroya Investment**

Financial Year	Date	Interest Amt Received	Bank Name	Paper Book Page No.
2014-15	29-10-2014	17,083	Punjab National Bank	26
2014-15	07-02-2015	19,167	Punjab National Bank	26
<b>Total - A.Y. 2015-16 (A)</b>		<b>36,250/-</b>		
2014-15	24-04-2015	18,750	Punjab National Bank	29
2015-16	24-07-2015	18,958	Punjab National Bank	29
2015-16	30-10-2015	39,292	Punjab National Bank	16
2015-16	15-02-2016	46,000	Punjab National Bank	15
<b>Total - A.Y. 2016-17 (B)</b>		<b>1,23,000/-</b>		
2016-17	28-04-2016	45,500	Punjab National Bank	37
<b>Total - A.Y. 2017-18 (C)</b>		<b>45,500/-</b>		
<b>Grand Total (A+B+C)</b>		<b>2,04,750/-</b>		

**8.3.** It was further submitted that even as per the information relied upon by the Ld. AO, it is not clear as to the assessment year to which the alleged receipt pertains. The statement placed at pages 57 to 59 of the paper book does not specify the relevant assessment year in which the said amount could be brought to tax. It was therefore contended that, in the absence of any corroborative or supporting evidence, no addition could be made in the hands of the assessee for A.Y. 2018-19.

**8.4.** The Ld.DR strongly relied on the orders of the Ld.AO and the Ld.CIT(A). It was submitted that during the course of survey proceedings under section 133A of the Act in the case of the borrower, statements were recorded wherein it was admitted that interest payments had been made to the assessee. The Ld.DR contended that such admission constitutes a valid piece of evidence and the Ld.AO was justified in drawing an inference that interest income had accrued to the assessee.

**8.5.** It was further submitted that the assessee is following the mercantile system of accounting and, therefore, interest income on the loan advanced would accrue on a year-to-year basis irrespective of actual receipt. The failure of the assessee to account for such accrued interest in the books cannot defeat the chargeability of income. The Ld.DR submitted that the absence of a bank entry does not conclusively establish that income had not accrued, particularly when there is a statement from the borrower indicating payment.

**8.6.** The Ld.DR also submitted that the assessee has not produced any documentary evidence such as correspondence, legal notice, or confirmation from the borrower to demonstrate that the loan had become non-performing or that the interest was not recoverable. In the absence of such evidence, the Ld.AO was justified in treating the interest as having accrued and in bringing the same to tax for A.Y. 2018–19.

I have perused the submissions advanced by both sides in light of records placed before us.

**9.** The addition has been made by the Ld.AO primarily on the basis of a statement recorded from a third party during survey proceedings under section 133A of the Act. It is well settled that a statement recorded during survey, by itself, does not constitute conclusive evidence unless supported by corroborative material. In the present case, no independent evidence has been brought on record by the Revenue to demonstrate that the assessee has actually received any interest during the year under consideration.

**9.1.** The bank statements placed on record do not reflect any credit of the alleged amount of ₹77,584/- in the relevant previous year. The Revenue has not been able to controvert this factual position. Further, there is no material on record evidencing availability of cash with the assessee so as to support the allegation that interest was received in cash. In the absence of any cash flow, cash balance, or corresponding entries in the books, the allegation of cash receipt remains unsubstantiated.

**9.2.** Even the statement of the borrower relied upon by the Ld.AO does not specify the assessment year to which the alleged payment pertains. In the absence of identification of the relevant year of taxability, the addition made in A.Y. 2018-19 is without any factual foundation.

**9.3.** Thus, the addition has been made solely on the basis of an uncorroborated third-party statement, without any supporting documentary evidence, without any bank entry, and without establishing any cash trail in the hands of the assessee. Such an

addition cannot be sustained in law. The same is accordingly directed to be deleted.

**Accordingly, grounds raised by the assessee for assessment year 2018-19 stands allowed.**

**In the result appeal for assessment year 2017-18 stands allowed on legal issue raised in additional ground vide application dated 07/01/2026 and appeal for assessment year 2018-19 stands allowed on merits.**

**Order pronounced in the open court on 17/02/2026**

*Sd/-*

**(BEENA PILLAI)  
Judicial Member**

Mumbai:

Dated: 17/02/2026

Divya Ramesh Nandgaonkar,  
Stenographer

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

By order

(Asstt. Registrar)  
**ITAT, Mumbai**