

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

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT &
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No. 9067/Mum/2025
(Assessment Year: 2014-15)**

Ramesh Amratlal Brahmbhatt 43 Rajnigandha, Gulmohar Cross Road No. 11, J V P D Scheme, Juhu, Mumbai-400 049	Vs.	ITO Ward 34(3)(2), Kautilya Bhavan, Bandra Kurla Complex, Mumbai – 400 051
PAN/GIR No. AABPB7235R		
(Applicant)		(Respondent)

Assessee by	Shri K. Gopal & Ms. Neha Paranjpe, Ld. ARs
Revenue by	Shri Annavaram Kosuri, Ld. DR

Date of Hearing	23.02.2026
Date of Pronouncement	25.02.2026

आदेश / ORDER

PER MAKARAND VASANT MAHADEOKAR, AM:

This appeal is directed against the order passed by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”], dated 28.11.2025, arising out of the assessment order dated 20.05.2023 passed under section 147 read with section 144B of

the Income-tax Act, 1961[hereinafter referred to as “the Act”] for Assessment Year 2014–15.

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

Reopening under section 147 of the Act is bad in law as the notice dated 29.07.2022 issued u/s 148 of the Act is barred by limitation and bad in law.

1. *The notice dated 27.07.2022 issued under section 148 of the Act is barred by limitation as per the provisions of section 149 of the Act. Hence, the notice issued under section 148 of the Act and the entire reassessment proceedings conducted pursuant to the same are without jurisdiction and bad in law.*
2. *The notice dated 27.07.2022 under section 148 of the Act issued for the Assessment Year: 2014-15 is barred by limitation in view of the observations of the Hon’ble Supreme Court in the case of UOI v. Rajeev Bansal [2024] 469 ITR 46 (SC) [03-10-2024]. Thus, the said notice issued under section 148 of the Act is bad in law and void ab initio.*
3. *The notice dated 27.07.2022 issued by the Jurisdictional Assessing Officer under section 148 of the Act is in contravention of the provisions of section 151A of the Act. Hence, the same is illegal and bad in law.*
4. *The notice dated 29.07.2022 issued under section 148 of the Act is barred by limitation as per the provisions of section 149 of the Act. Hence, the notice issued under section 148 of the Act and the entire reassessment proceedings conducted pursuant to the same are without jurisdiction and bad in law.*

Addition under section 68 of the Act merely relying on the information and the statement of third party is not justified.

5. *The NFAC is not justified to confirm the addition of Rs.3,80,79,292/- made by the Ld. A.O. under section 68 of the Act merely relying on some information and the statement of third party without providing the Appellant an opportunity to cross examine the person on whose statement of oath the Ld. AO has relied upon. The addition made under*

section 68 of the Act is in breach of the principles of natural justice and the same may be deleted.

Addition under section 68 of the Act is not justified – Rs.3,80,79,292/-

6. The NFAC is not justified in confirming the addition of Rs.3,80,79,292/- made by the Ld. A.O. under section 68 of the Act being Long Term Capital gain on sale of listed equity shares of M/s. Risa International Ltd. as unexplained cash credit without appreciating the facts and circumstances of the Act. Thus, the addition made under section 68 of the Act is unjustified and the same may be deleted.
7. The NFAC is not justified in confirming the addition made u/s. 68 of the Act amounting to Rs. 3,80,79,292/- being Long Term Capital gains on sale of listed equity shares claimed exempt u/s 10(38) of the Act without considering the fact that the said transaction has been carried through a recognized stock exchange and Securities Transaction Tax (STT) has been paid thereon. Hence, the addition made u/s 68 is without any basis, arbitrary and therefore ought to be deleted.
8. The NFAC is not justified in confirming the addition of Rs. 3,80,79,292/- as long term capital gain on sale of listed equity shares of M/s Risa International Ltd without verifying the documentary evidence furnished by the Appellant. The Appellant submitted that the total long term capital gain of Rs. 3,80,79,292/- include Long Term capital gain on sale of M/s Risa International Ltd amounts to Rs. 3,85,92,408/-, long term capital gain of Rs. 2,364/- on sale of shares of M/s Secure Earth Technologies Ltd and long term capital loss of Rs. 5,15,480/- on sale of shares of M/s SQL Star International Ltd. The NFAC has confirmed the addition without examining these details and supporting documents. Furthermore, the reasons recorded for reopening the assessment do not contain any reference to shares of M/s Secure Earth Technologies Ltd. or M/s SQL Star International Ltd. being penny stocks.
9. The NFAC failed to appreciate that the Appellant has duly discharged the primary onus cast upon it by substantiating the identity of the party and the nature and genuineness of the share transactions undertaken by providing all the details of purchase and sale of shares. Thus, the addition of Rs.3,80,79,292/- made under section 68 of the Act is not justified and the same may be deleted.

10. *The Appellant denies the liability to pay the interest under section 234B and 234C of the Act.*
11. *The Appellant seeks leave to add, alter and amend the above grounds whenever required.*

Facts in Brief

3. The assessee filed return of income declaring total income of Rs. 6,11,400/-. Subsequently, notice under section 148 was issued on 29.07.2022 pursuant to the order passed under section 148A(d). The reassessment was initiated on the basis of information received from Investigation Wing regarding alleged penny stock transactions in the scrip of M/s Risa International Ltd.

4. The reassessment was completed under section 147 read with section 144B vide order dated 20.05.2023 determining total income at Rs. 3,86,90,692/- by making addition of Rs. 3,80,79,292/- under section 68 on account of alleged bogus Long Term Capital Gain claimed exempt under section 10(38) on sale of shares of M/s Risa International Ltd.

5. The assessee preferred appeal before CIT(A), who upheld the validity of reassessment proceedings and confirmed the addition under section 68. Aggrieved, the assessee is in appeal before us.

6. The learned Authorised Representative (AR) submitted that the notice issued under section 148 dated 29.07.2022 is barred by limitation in view of the decision of the Hon'ble Supreme Court in **UOI v. Rajeev Bansal [2024] 469 ITR 46 (SC)**. A comparative

chart was placed on record demonstrating computation of surviving limitation.

7. It was contended that after applying the exclusion period and computing the surviving period as per paragraph 112 of Judgement of Hon'ble Supreme Cour in case of **Rajeev Bansal**, only two days remained available to the Assessing Officer. It was submitted that the notice under section 148A(b) was issued on 31.05.2022, reply was filed on 14.06.2022, and even applying the sixth proviso to section 149, the outer limit would expire on 21.06.2022. The impugned notice having been issued on 29.07.2022 is beyond limitation.

8. Reliance was placed on the judgment of the Hon'ble jurisdictional High Court in **Hitesh Ramniklal Shah v. ACIT [2025] 180 taxmann.com 642 (Bom)**, wherein in identical circumstances the notice was held to be time barred after computing the surviving period.

9. The learned Departmental Representative supported the orders of the lower authorities. It was submitted that the escaped income exceeded Rs. 50,00,000/- and therefore section 149(1)(b) applies providing extended limitation of ten years.

10. Reliance was placed on the judgment of the Hon'ble Madras High Court in **Kandasamy Veluswamy v. ACIT [2026] 182 taxmann.com 74 (Madras)**, wherein the reassessment notice was upheld in similar factual matrix.

11. We have carefully considered the rival submissions and perused the material on record. The issue involved in Ground Nos. 1 to 4 relates to the validity of notice issued under section 148 dated 29.07.2022 and whether the same is barred by limitation in light of the decision of the Hon'ble Supreme Court in **UOI v. Rajeev Bansal (469 ITR 46)**.

12. The learned Authorised Representative has relied upon the decision of the Hon'ble jurisdictional High Court in **Hitesh Ramniklal Shah v. ACIT (180 taxmann.com 642) (Bom.)**, wherein the Hon'ble High Court has elaborately explained the concept of "surviving period" while applying the ratio laid down by the Hon'ble Supreme Court in **Rajeev Bansal (supra)**. The Hon'ble jurisdictional High Court has observed as under:

18. The Petitioner submitted that the 'surviving period' is required to be computed to determine the validity of the notice issued under Section 148. The surviving period is calculated by taking into account the number of days between the erstwhile notice under Section 148 of the Act (i.e. 29 June 2021) and 30 June 2021 which is to be excluded. Hence, based on the facts of the Petitioner's case 2 days will be added to the time granted to the Petitioner to respond to the deemed show cause notice i.e. 8 June 2022. Therefore, for the notice to fall within the surviving period it would have to be issued before 10 June 2022. However, in the present case the notice under Section 148 of the Act is issued on 27 July 2022 which is clearly beyond the surviving period. Further, the Petitioner submitted that it furnished its reply within the time prescribed and did not ask for any additional time to file its reply, and therefore, no further period can be excluded while computing the period of limitation. However, on a demurer, even assuming that the date of the last reply filed by the Petitioner is to be considered, i.e., 25 June 2022, yet the notice under Section 148 of the Act would have to be issued by 27 June 2022. As the impugned notice is issued on 27 July

2022 it is beyond the surviving period as contemplated in Rajeev Bansal (supra).”

The Hon’ble jurisdictional High Court thereafter held that a notice issued beyond the surviving period is barred by limitation and without jurisdiction.

13. In the present case also, the learned Authorised Representative has demonstrated by placing a comparative chart on record that after applying the exclusion period as laid down by the Hon’ble Supreme Court in **Rajeev Bansal (supra)**, only a limited surviving period remained available to the Assessing Officer and the impugned notice issued under section 148 dated 29.07.2022 has been issued beyond such surviving period.

14. The factual matrix of the present case is materially similar to the facts considered by the Hon’ble jurisdictional High Court in **Hitesh Ramniklal Shah (supra)**. The ratio laid down therein is therefore squarely applicable.

15. The learned Departmental Representative has placed reliance on the decision of the Hon’ble Madras High Court in **Kandasamy Veluswamy v. ACIT (supra)** in support of the contention that the notice issued under section 148 dated 29.07.2022 is within limitation in view of section 149(1)(b) of the Act.

16. We have carefully considered the said decision and find that the reliance placed by the Revenue is misplaced. At the outset, it

is well settled that the decision of the jurisdictional High Court is binding on the Tribunal. In the present case, the Hon'ble Bombay High Court in **Hitesh Ramniklal Shah v. ACIT (supra)** has directly considered the issue of limitation in reassessment proceedings arising out of notices issued under the old regime and converted into proceedings under the new regime pursuant to the decision of the Hon'ble Supreme Court in **UOI v. Ashish Agarwal (444 ITR 1)** and **UOI v. Rajeev Bansal (469 ITR 46)**. The Hon'ble jurisdictional High Court has categorically held that after applying the exclusion contemplated in **Rajeev Bansal**, the Assessing Officer would have only the surviving period available under the old regime and a notice issued beyond such surviving period would be barred by limitation. Therefore, the binding precedent of the Hon'ble jurisdictional High Court squarely governs the present case. The decision of the Hon'ble Madras High Court, being that of a non-jurisdictional High Court, is only of persuasive value and cannot override the binding judgment of the Hon'ble Bombay High Court. The decision of the Hon'ble Madras High Court proceeds primarily on the basis that where escaped income exceeds Rs. 50 lakhs, the extended limitation under section 149(1)(b) of the Act is available. However, the Hon'ble Bombay High Court in **Hitesh Ramniklal Shah (supra)** has specifically interpreted section 149 in the context of **Rajeev Bansal** and held that the limitation must be determined after computing the surviving period available as on 01.04.2021. Thus, while the Madras High Court emphasized the outer limit of ten

years, the jurisdictional High Court has emphasized the surviving period principle, which directly applies to the present case.

17. In the case relied upon by the learned DR, the question of limitation was examined primarily from the perspective of availability of extended limitation under section 149(1)(b). In the present case, however, the assessee has specifically demonstrated by way of date-wise computation that after applying paragraph 112 of **Rajeev Bansal**, only a limited surviving period remained available and the impugned notice dated 29.07.2022 has been issued beyond such period. This precise factual computation forms the basis of the decision of the Hon'ble Bombay High Court in **Hitesh Ramniklal Shah**, which is directly applicable.

18. The Hon'ble Bombay High Court has applied the law laid down by the Hon'ble Supreme Court in **Rajeev Bansal (supra)** and held that:

26. After considering the above exclusion period, we observe that the remaining days for conclusion of the procedure for passing of an order in terms of Section 148A(d) and issuance of the notice under Section 148 of the Act would be two days. In the present case, whichever way we see it, the period of two days would expire on 10 June 2022 or 27 June 2022 respectively and, therefore, the notice under Section 148 of the Act issued on 27 July 2022 is time barred, inasmuch as it is issued much after the surviving period. We concur with the judgments of the coordinate bench in Gurpreet Singh (supra), of the Delhi High Court in Ram Balram Buildhome (P.) Ltd (supra) and the Gujarat High Court in Dhanraj Govindram Kalle (supra) which have dealt with the surviving period and quashed the notices issued under Section 148 of the Act passed beyond the surviving period.

19. The facts of the present case are materially similar inasmuch as:

- i. Notice under section 148 under the new regime was issued on 29.07.2022
- ii. Only a limited surviving period remained after exclusion
- iii. Notice was issued beyond such surviving period.

Thus, the ratio of the jurisdictional High Court directly governs the issue.

20. In view of the binding decision of the Hon'ble jurisdictional High Court in **Hitesh Ramniklal Shah (supra)** interpreting the law laid down by the Hon'ble Supreme Court in **Rajeev Bansal (supra)**, the reliance placed by the learned Departmental Representative on the decision of the Hon'ble Madras High Court in **Kandasamy Veluswamy (supra)** is distinguishable and does not advance the case of the Revenue.

21. Once the notice issued under section 148 is held to be barred by limitation, the assumption of jurisdiction under section 147 fails and the reassessment order passed pursuant thereto cannot survive. Accordingly, the reassessment notice issued under section 148 dated 29.07.2022 is held to be barred by limitation.

22. Ground Nos. 5 to 9 relate to the addition of Rs. 3,80,79,292/- made under section 68 of the Act on account of

alleged bogus Long Term Capital Gain claimed exempt under section 10(38) of the Act.

23. During the course of hearing before us, the learned AR primarily argued Ground Nos. 1 to 4 challenging the validity of reassessment proceedings on the ground of limitation in light of the decision of the Hon'ble Supreme Court in *UOI v. Rajeev Bansal (469 ITR 46)* and the decision of the Hon'ble jurisdictional High Court in *Hitesh Ramniklal Shah v. ACIT (180 taxmann.com 642)*. No separate arguments were advanced on the merits of the addition under section 68.

24. Since we have already held while adjudicating Ground Nos. 1 to 4 that the reassessment proceedings are barred by limitation and liable to be quashed, the reassessment order itself does not survive.

25. Accordingly, Ground Nos. 5 to 9 relating to the addition under section 68 are rendered academic and do not require adjudication.

26. Ground No. 10 relating to levy of interest under sections 234B and 234C is consequential in nature and Ground No. 11 is general in nature and therefore require no separate adjudication.

27. In the result, the reassessment order dated 20.05.2023 passed under section 147 read with section 144B of the Act is hereby quashed and the appeal of the assessee is allowed.

Order pronounced in the open court on 25.02.2026.

Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT

Sd/-
(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER

Mumbai, Dated 25/02/2026
Dhananjay, Sr.PS

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

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai