

**IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH, JODHPUR**

**BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER
AND SHRI SUDHIR PAREEK, HON'BLE JUDICIAL MEMBER**

**ITA No. 416/Jodh/2025
(Assessment Year – 2017-18)**

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| Prakash Jain C/o Rajendra Jain, Advocate 106, Akshay Deep Complex, 5th B Road, Sardarpura, Jodhpur - 342001 PAN No. ACEPJ 5236 H | | Asstt. Commissioner of Income Tax, Circle-2 Udaipur |
| Assessee by | Shri Rajendra Jain, Advocate and Smt. Raksha Birla, CA (Physical) | |
| Revenue by | Smt. Runi Pal – CIT-DR (Virtual) | |
| Date of Hearing | 29.01.2026. | |
| Date of Pronouncement | 26.02.2026. | |

ORDER

DR. MITHA LAL MEENA, A.M.:

This appeal is filed by the assessee, against the order of the National Faceless Appeal Centre, Delhi [hereinafter referred to as the "NFAC/CIT(A)"] dated 29/08/2025 with respect to the assessment year 2017-18.

2. At the outset, the Id. counsel for the assessee vehemently submitted that the issue raised in this appeal is covered by the decision of the Hon'ble Supreme Court in the case of Union of India Vs. Rajeev Bansal 167 taxmann.com 70. The AR briefly narrated the facts of the case that Notice u/s 148 of the Income-tax Act,

1961 (in short, "the Act") was issued under the unamended Act to the assessee on 23.04.2021 as per pg 2 of the assessment order. Thereafter, in view of the Hon'ble Supreme Court judgment given in the case of Union of India Vs. Ashish Agarwal reported in 444 ITR 1 (SC) dated 04.05.2022, the Id AO issued letter u/s 148A(b) of the Act on 24.05.2022 [APB, Pg 3 is the copy of the notice issued u/s 148A(b)] but in the assessment order, it is mentioned that the Notice u/s 148 of the Act issued was treated as show cause notice u/s 148A(b) of the Act. The assessee filed its reply on 07.06.2022. The Assessing Officer passed an order u/s 148A(d) of the Act on 25.07.2022 rejecting the objections of the assessee and proceeded to issue notice u/s 148 of the Act on 25.07.2022 (APB, Pg 1 is the copy of the notice u/s 148).

3. Thus, the sole issue of contention is whether the subsequent notice issued u/s 148 of the Act on 25.07.2022 is to be treated as legal or not in the light of decision of Hon'ble Supreme Court in the case of Union of India Vs. Rajeev Bansal reported in 469 ITR 46. The Id. counsel for the assessee contended that the notice u/s 148 of the Act dated 25.07.2022 would have to be in compliant with the new regime of reassessment as explained by the Hon'ble Supreme Court in the case of Rajeev Bansal 167 taxmann.com 70. The Ld. AR argued that fresh notice u/s 148 of

the Act could have been issued only with the prior approval of the specified competent authority as per section 151 of the Act which in the present case of the assessee is CCIT or PCCIT/PDGIT. Since in the instant case, the approval is taken from PCIT, hence the fresh notice issued u/s 148 is not in accordance with law. In support, the Id. AR placed reliance on the following decisions:

i) Sandeep Gupta Vs. ITO [ITA No.299/DEL/2025 [A.Y. 2017-18]

dated: 07.10.2025

ii) ACIT Vs. Ramchand TahkurdasJhamtani 173 taxmann.com 182

iii) Ramesh Bachulal Mehta Vs. ITO 177 taxmann.com 606

iv) Rahat Mohd. Riyazuddin Shaikh Vs. ITO 175 taxmann.com 149

v) ACIT Vs. Surya Ferrous Alloys [P] Ltd 169 taxmann.com 736

4. Per contra, the Id. DR, relied on the orders of the authorities below.

5. We have heard the rival contention's, perused the relevant material on record and case law cited before us. Admittedly, the original notice u/s 148 was issued under the amended Act to the assessee on 23.04.2021. Thereafter, in pursuant to the decision of the Hon'ble Supreme Court in the case of Ashish Agarwal (2023) 01 SCC 617, the Assessing Officer treated the same notice as deemed to be issued u/s 148 A(b) and passed an order u/s 148A(d) of the Act on

25.07.2022 and issued a notice u/s 148 of the Act on 25.07.2022 after taking prior approval of PCIT u/s 151 of the Act. The Hon'ble Supreme Court in the case of Union of India Vs. Rajeev Bansal reported in 469 ITR 46 (SC) states that once the notice u/s 148 is issued under the amended new regime introduced by the Finance Act 2021 w.e.f. 01.04.2021, the AO has to follow the process of obtaining the prior approval of specified authority as per section 151 (ii) of the new regime, which in the case of instant assessee is PCCIT/PDGIT or CCIT. We are therefore of the considered view that there was violation of the provision of section 151 (ii) of the Act in issuance of notice u/s 148.

6. Further, the Hon'ble Bombay High Court in the case of Ramesh Bachulal Mehta Vs. ITO 177 taxmann.com 606 have held that notice u/s 148 in violation of the provisions of section 151 (ii) is bad in law and is required to be quashed.

7. In the present case, admittedly the notice u/s 148 was issued by the AO, in violation of the provisions of section 151 (ii) of the act. Therefore, following the decision of Mumbai High Court (Supra), we hold that the notice issued u/s 148 dated 25.07.2022 for A. Y. 2017-18 in the instant case, is in violation of section 151 (ii) and the same is, therefore, liable to be quashed.

8. Without prejudice to the above, the notice issued u/s 148 of the act is barred by limitation. The due date prescribed for issue of notice under the mandate is the period of 3 years to the end of the assessment year and thus, in the present case the due date was 31.03.2022 whereas the notice was issued on 25.07.2022. Thus, the notice was issued after a period of 3 years, and 4 months which is barred by limitation as per the first proviso to the unamended provisions of section 149(1). Our view gets support from the decision of honourable Supreme Court in the case of Rajiv Bansal(supra); ITAT Mumbai Bench in case of ACIT -19(1) vs. Manish Financial in ITA No. 5050& 5055/Mum/2024 dated 02/12/2024 and ITAT Pune Bench in case of ITO, Dhule vs. Santosh Jaynarayan Sharma in ITA No. 5055/Pune/2025 dated 06/02/2026.

9. In the backdrop of the aforesaid discussion, we quash the reassessment order emanating out of such notice issued u/s 148 of the Act. Since the notice u/s 148 is quashed, no separate adjudication is made on other grounds. Further, as the assessment order has been quashed, all the issues raised by the assessee in his appeal, which deal with the merits of the case become academic and infructuous and require no separate adjudication.

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

Order pronounced in the open court on 26/02/2026.

Sd/-

**(SUDHIR PAREEK)
JUDICIAL MEMBER**

Dated : 26/02/2026.

Nimisha Sr. PS

Sd/-

**(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER**

True Copy

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

BY ORDER,