

**IN THE INCOME TAX APPELLATE TRIBUNAL “E” BENCH, MUMBAI
BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER**

AND

SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

**ITA No. 3866/MUM/2025
(Assessment Year: 2015-16)**

Dy. Commissioner of Income-Tax-1(1)(1), Mumbai	vs	Hindustan Petroleum Corporation Limited Petroleum House Jamshedji Tata Road, Marine Lines S.O Mumbai - 400020 (PAN: AAACH1118B)
Appellant		Respondent

Present for:

Assessee by : Ms. Hiralil Desai, CA
Revenue by : Shri Ritesh Misra, CIT DR

Date of Hearing : 23.02.2026
Date of Pronouncement : 26.02.2026

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the Revenue is against the order of National Faceless Appeal Centre (NFAC), Delhi vide Order No. ITBA/NFAC/S/250/2024-25/1075143492(1) dated 27.03.2025 passed against the assessment order by the Assessment Unit, u/s. 147 r.w.s. 144 read with Sec. 144B of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), dated 25.05.2023 for AY 2015-16.

2. Grounds taken by the Revenue are reproduced as under:

“ Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition of Rs. 9,60,00,000/- on account of disallowance of investment allowance claimed u/s. 32AC on dispensing units in retail outlets ignoring the fact that the dispensing units do not fall within the meaning of plant and hence, not eligible for claim of deduction U/s. 32AC.

2. Whether on the facts and circumstances of the case and in law the Ld. CIT(A) erred in holding that the dispensing units used for marketing and retailing unit can be classified as plant and machinery and used for manufacturing and production and thus eligible for investment allowance u/s 32AC.

3. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition of Rs. 16,59,00,000/- on account of disallowance of investment allowance claimed u/s. 32AC on Rewari-Kanpur Pipeline Project ignoring the fact that the said project is not completely ready for operations by the end of the F.Y. 2014-15; hence, the said asset cannot be said to be put to use during the F.Y. 2014-15."

2.1. Assessee has filed an application under Rule 27 of the Income Tax (Appellate Tribunal) Rules, 1963 (ITAT Rules), dated 18.02.2026 to support the order of ld. CIT(A) on the legal ground not adjudicated by the ld. CIT(A) and kept open. In this respect, assessee had filed additional grounds before the ld. CIT(A) challenging the impugned reassessment proceedings, contesting that it is barred by the limitation in view of the decision of Hon'ble Supreme Court in the case of Union of India vs. Rajeev Bansal [2024] 167 taxmann.com 70 (SC) and that the notice issued u/s. 148 was by Jurisdictional Assessing Officer (JAO) instead of Faceless Assessing Officer (FAO) in violation of section 151A r.w. Notification No. 18/2022 issued by the Central Board of Direct Taxes (CBDT). Accordingly, through this application under Rule 27 of the ITAT Rules, assessee has sought to contest on the following ground before the Tribunal.

"On the facts and in the circumstances of the case and in law, the Assessing Officer erred in initiating re-assessment proceedings under section 147 of the IT Act for AY 2015-16 in contravention of the provisions of the Act and accordingly, the consequential order passed under section 147 r.w.s. 144B of the IT Act dated 25 May 2023, is void-ab-initio, bad in law and therefore liable to be quashed."

2.2. Since the application filed by the assessee under Rule 27 goes to the roots of the matter being jurisdictional issue, the same is taken up for adjudication. Merits of the case have not been argued upon by either parties nor any submission made to that effect. Accordingly, we draw

facts from the records relating to legal grounds, argued before the Bench.

3. Assessee is engaged in the business of refining of crude oil and marketing of petroleum products. It was incorporated on 05.07.1952. Assessee filed its return of income for on 27.11.2015 reporting the total income at Rs.1910,83,40,380/- under normal provisions of the Act and book profit of Rs.3527,18,28,885/- u/s. 115JB of the Act. Subsequently, it was revised on 30.03.2017 reporting total income of Rs.1699,36,34,470/- under normal provisions of the Act and book profit of Rs.3527,18,28,885/-. The same was assessed on 29.12.2017 determining total income of Rs.1808,61,65,029/- under normal provisions of the Act and computed book profit of Rs.3595,34,39,193/- u/s. 115JB of the Act.

3.1. Subsequently, case of the assessee was taken up for re-assessment by issuing notice u/s. 148, dated 30.03.2021 alleging escapement of income from the assessment. Assessee furnished the sequence of events with regard to the issuance of notice u/s 148 of the Act in present case, which is tabulated below:

Sr. No.	Particulars	Date
1.	Notice u/s, 148 as per old regime (deemed to be show cause notice u/s. 148(b) of the Act)	31 March 2021 (recd. On 21 April 2021)
2.	Issue Letter/deemed notice u/s. 148A(b) of the Act providing relevant material and information to the Company	25 May 2022

3.	Response filed by the Company to the above notice	06 June 2022 20 June 2022
4.	Order u/s 148A(d) of the Act	29 July 2022
5.	Notice u/s. 148 (as per new regime)	30 July 2022

4. At the outset, we find that this issue has been settled in the case of Rajeev Bansal (supra) wherein reference is made to the submissions made on behalf of the Revenue vide para 19 which is relevant and the same is reproduced hereunder:-

"19. Mr N Venkataraman, learned Additional Solicitor General of India, made the following submissions on behalf of the Revenue:

a. Parliament enacted TOLA as a free-standing legislation to provide relief and relaxation to both the assesseees and the Revenue during the time of COVID- 19. TOLA seeks to relax actions and proceedings that could not be completed or complied with within the original time limits specified under the Income Tax Act,

b. Section 149 of the new regime provides three crucial benefits to the assesseees: (i) the four-year time limit for all situations has been reduced to three years, (ii) the first proviso to Section 149 ensures that re-assessment for previous assessment years cannot be undertaken beyond six years, and (iii) the monetary threshold of Rupees fifty lakhs will apply to the re- assessment for previous assessment years,

c. The relaxations provided under Section 3(1) of TOLA apply "notwithstanding anything contained in the specified Act." Section 3(1), therefore, overrides the time limits for issuing a notice under Section 148 read with Section 149 of the Income Tax Act;

d. TOLA does not extend the life of the old regime. It merely provides a relaxation for the completion or compliance of actions following the procedure laid down under the new regime;

e. The Finance Act 2021 substituted the old regime for re-assessment with a new regime. The first proviso to Section 149 does not expressly bar the application of TOLA. Section 3 of TOLA 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 TOLA, then all the notices issued between 1 April 2021 and 30 June 2021 pertaining to assessment years 2013-2014, 2014-2015, 2015-2016, 2016-2017 and 2017-2018 will be within the period of limitation as explained in the tabulation below;

Assessment Year (1)	Within 3 Years (2)	Expiry of Limitation read with TOLA for (2) (3)	Within six Years (4)	Expiry of Limitation read with TOLA for (4) (5)
2013-2014	31.03.2017	TOLA not applicable	31.03.2020	30.06.2021
2014-2015	31.03.2018	TOLA not applicable	31.03.2021	30.06.2021
2015-2016	31.03.2019	TOLA not applicable	31.03.2022	TOLA not applicable
2016-2017	31.03.2020	30.06.2021	31.03.2023	TOLA not applicable
2017-2018	31.03.2021	30.06.2021	31.03.2024	TOLA not applicable

f. The Revenue concedes that for the assessment year 2015-16, all notices issued on or after 1 April 2021 will have to be dropped as they will not fall for completion during the period prescribed under TOLA;

g. Section 2 of TOLA defines "specified Act" to mean and include the Income Tax Act. The new regime, which came into effect on 1 April 2021, is now part of the Income Tax Act. Therefore, TOLA continues to apply to the Income Tax Act even after 1 April 2021; and

h. Ashish Agarwal (*supra*) treated Section 148 notices issued by the Revenue between 1 April 2021 and 30 June 2021 as show-cause notices in terms of Section 148A(b). Thereafter, the Revenue issued notices under Section 148 of the new regime between July and August 2022. Invalidation of the Section 148 notices issued under the new regime on the ground that they were issued beyond the time limit specified under the Income Tax Act read with TOLA will completely frustrate the judicial exercise undertaken by this Court in Ashish Agarwal (*supra*).

4.1. Thus, it can be seen that Revenue conceded before the Hon'ble Supreme Court in para 19(f) for dropping all the notices issued on or after 01.04.2021 for A.Y. 2015-16 as they will not fall for completion during the period prescribed under TOLA.

4.2. This issue had come up before the Hon'ble Delhi High Court in the case of IBIBO Group Pvt. Ltd. vs. ACIT, WP(C)17639 of 2022, dated 13.12.2024 wherein re-assessment action for Assessment Year 2015-

16 was held to be not sustainable. Hon'ble Court quashed the notice issued u/s.148 as well as order passed u/s. 148A(d), dated 23.07.2022 for Assessment Year 2015-16 by following the decision in the case of Rajeev Bansal (supra).

4.3. In the case of present assessee, since the notice issued u/s.148 is dated 30.07.2022, period of six years expired on 31.03.2022 and is thus barred by limitation. Accordingly, notice so issued and re-assessment completed thereafter u/s. 147 is liable to be quashed, in view of the decision of Hon'ble Supreme Court in the case of Rajeev Bansal (supra) which was followed by Hon'ble Delhi High Court in the case of IBIBO (supra).

4.4. Hon'ble Supreme Court while dismissing the SLP filed by Revenue in the case of ACIT vs. Nehal Ashit Shah in SLP (Civil) Diary No(s). 57209/2024, dated 04.04.2025 held that it does not survive for further consideration. While holding so, Hon'ble Court noted in para 5 as under:

“5. In this regard, reference could also be made to paragraph 19(e) and (f) in the case of Union of India vs. Rajeev Bansal, Civil Appeal No.8629 of 2024 on 03.10.2024 (2024 SCC ONLINE 754) under which the learned Additional Solicitor General for India has made a concession insofar as the assessment year 2015-16 is concerned.”

5. In view of above stated deliberation, both on facts and law including the applicable jurisprudence, we hold that notice for A.Y. 2015-16 issued on 30.07.2022 u/s 148 of the new regime is barred by limitation and hence bad in law, liable to be quashed, resulting in impugned reassessment proceedings as well as the impugned reassessment order bad in law. Accordingly, grounds of appeal raised on the merits of the case by the Revenue are rendered academic and are therefore, dismissed.

6. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on 26 February, 2026.

Sd/-
[Amit Shukla]
Judicial Member

Sd/-
[Girish Agrawal]
Accountant Member

Dated: 26 February, 2026.

MP, Sr.P.S

Copy to:

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai