

**IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH, KOLKATA**

**BEFORE SHRI RAJESH KUMAR, AM  
AND  
SHRI PRADIP KUMAR CHOUBEY, JM**

**ITA Nos. 2550 & 2551/KOL/2025  
(Assessment Years: 2014-15 & 2015-16)**

**DCIT, CC 1(2), Kolkata  
Aaykar Bhawan Poorva,  
110, Shantipally, 3<sup>rd</sup> Floor,  
Kolkata-700107, West Bengal**

**(Appellant)**

**PAN No. AANCS2337J**

**M/s Siddheshwari Vyapaar  
Private Limited**

**vs.**

**2<sup>nd</sup> Floor 159, Rabindra Sarani,  
Kolkata-700007, West Bengal**

**(Respondent)**

**Cross Objection Nos. 2 & 3/KOL/2026**

**(Arising in ITA Nos. 2550 & 2551/KOL/2025 for AYs 2014-15 &  
2015-16 respectively)**

**M/s Siddheshwari Vyapaar  
Private Limited  
2<sup>nd</sup> Floor 159, Rabindra Sarani,  
Kolkata-700007, West Bengal**

**(Appellant)**

**PAN No. AANCS2337J**

**vs.**

**DCIT, CC 1(2), Kolkata  
Aaykar Bhawan Poorva,  
110, Shantipally, 3<sup>rd</sup> Floor,  
Kolkata-700107, West Bengal**

**(Respondent)**

**Assessee by : S/Shri Soumitra Choudhury,  
Raunak Jain, ARs  
Revenue by : Shri S.B. Chakraborty, DR**

**Date of hearing: 13.01.2026  
Date of pronouncement: 26.02.2026**

**ORDER**

**Per Rajesh Kumar, AM:**

These are cross appeals preferred by the assessee & Revenue against the orders of the Commissioner of Income-tax (Appeals), Kolkata-20 (hereinafter referred to as the "Ld. CIT(A)"] even dated 06.05.2025 for the AYs 2014-15 & 2015-16.

2. At the outset, we observe from the appeal folder that there is a delay of 97 days in filing the appeals by the department in ITA nos.2550 & 2551/KOL/2025 for A.Ys. 2014-15 & 2015-16 and in support of which condonation petitions were filed. It was stated in the condonation petition that the delay has occurred due to obtaining the administrative approvals from the competent authorities, which took quite a long time and accordingly, the delay may be condoned. The Id. AR, on the other hand, did not oppose the condonation of delay. Considering the reasons cited before us, we are inclined to condone the delay and admit the appeal for hearing.

**A.Y. 2014-15**

**ITA No.2550 /KOL/2025 & CO 2/Kol/2026**

3. The Revenue has challenged the deletion of addition by the Id. CIT (A) as made by the Id. AO in respect of unsubstantiated loss on stock option of ₹1,22,73,405/-, unexplained expenditure u/s 69C of ₹2,45,478/-, unsubstantiated loss of penny stock of ₹2,34,41,467/- and unexplained expenditure of ₹4,68,830/- as made by the Id. AO.
4. The assessee by way of Cross Objection has challenged the notice issued u/s 148 of the Act as well as the assessment framed to be barred by limitation. Since, the assessee has raised legal issue in the cross objection, we are inclined to decide the grounds raised in CO.
- 4.1. The facts in brief are that the assessee filed the return of income on 30.11.2014, declaring total income at ₹5,81,240/-. The assessee is a non-banking financial company engaged in the business of providing loans and trading in shares. The assessment u/s 143(3) of the Act was framed in the instant case vide order dated 26.12.2016. Thereafter,

the assessment was completed u/s 153C of the Act on 30.04.2021. The notice u/s 148 of the Act was issued on 30.06.2021, show cause the notice u/s 148A(b) of the Act was issued on 24.05.2022, which was replied by the assessee on 18.06.2022. The order u/s 148A(d) of the Act was passed on 29.07.2022 and notice u/s 148 of the Act was issued on 30.07.2022.

4.2. The Id. AR vehemently submitted before us that the notice u/s 148 of the Act is barred by limitation on 31.03.2021, in terms of Provisions of Section 149(1)(b) of the Act. The Id. AR submitted that in this case the assessment year involved was A.Y. 2014-15 and since, the income which was alleged to have escaped the assessment was more than 1 lacs. Therefore, notice u/s 148 could be issued within a period of six years from the end of the relevant assessment year. The Id. AR therefore prayed that since the notice was issued beyond the limitation period, i.e., on 30.06.2021, therefore, the benefit of TOLA is not available. The Id. AR submitted that the benefit of TOLA is available if the limitation expires between 01.04.2021 to 30.06.2021, within which the TOLA is applicable. However, in this case the limitation has already expired. The Id. Counsel for the assessee submitted that the notice u/s 148 as well as the assessment framed is consequential. The Id. AR in defense of his argument relied on the decision of the co-ordinate bench in case of Samrat Finvestors Private Limited Vs. ITO in ITA Nos. 1035 to 1038/KOL/2025 vide order dated 16.10.2025, the operative part of the decision read as under:-

*"030. After hearing the rival contentions and perusing the materials available on record, we find that the assessment in this case was framed u/s 143(3) of the Act vide order dated 31.12.2016. Thereafter, the notice u/s 148 of the Act was issued on 28.04.2021 and ITR was filed on 07.05.2021. Thereafter, the assessee filed the objection on the validity of notice issued u/s 148 of the Act, challenging the same on the various grounds.*

The assessee submitted that in Para no.2 that the new scheme of reassessment has come in place with effect from 01.04.2021, therefore was any reopening notice u/s 148 of the Act on or after 01.04.2021, has to be in accordance with the new provisions of Section 148 and 148A of the Act. The assessee requested the Id. AO to drop the proceedings immediately. Thereafter, the learned AO issued notice u/s 148A(b) of the Act on 31.12.2022, which were replied by the assessee by uploading the submission on online portal on 01.07.2021. The order u/s 148A(d) of the Act was passed on 30.07.2022 and the notice u/s 148 of the Act, was issued u/s 30.07.2022. We find that {Taxation and Other Laws [Relaxation and Amendment of Certain Provisions] Act} TOLA is not applicable. In the present case as has been admitted in the case of Union of India and other Vs. Rajeev Bansal [2024] 469 ITR 46 (SC), dated 03.10.2024. Therefore, the notice u/s 148 of the Act dated 30.07.2022, is barred by limitation and so is the assessment framed consequently u/s 143(3)/ 147 of the Act. We note that as per the Section 149(1) of the Act, the time limit for issue of notice u/s 148 of the Act for A.Y. 2014-15 before 01.04.2021, would be as per the old provision of Section 148 of the Act as existed the prior to 01.04.2021. As per the provision of section 147 of the Act as prevalent prior to 01.04.2021, the assessment in respect of assessment year which is already completed u/s 143(3) of the Act can be reopened u/s 148 of the Act within a period of four years from the end of the relevant assessment year. Under the present case i.e. A.Y. 2014-15, the assessment was framed u/s 143(3) of the Act vide order dated 31.12.2016 and therefore, period of limitation from the end of the relevant assessment year would be on or before 31.03.2019. The proviso to Section 147 of the Act also provides that prior to 01.04.2021, an assessment completed u/s 143(3) of the Act can be reopened upto six years from the end of the relevant assessment year if the escapement of income is there due to the failure on the part of the assessee to fully and truly disclose material facts for assessment of income for the relevant assessment year. We note that the assessee had already made full disclosure in the return of income filed u/s 139(1) of the Act on all transactions of sale of shares which resulted in loss as well as transactions relating to loss on Future and Option (F&O) transactions in derivatives. We even note that subject matter of proceeding u/s 143(3) of the Act was as to whether the loss has claimed by the assessee were bogus or could be allowed. Since, the Tribunal has already held the loss claimed to be valid and thus, allowed the claim of the assessee then the escapement cannot be attributed to the assessee. In our opinion, in such scenario, the proviso to Section 147 of the Act would not be applicable and therefore, the period of limitation for issue of notice u/s 148 would be 31.03.2019. Apparently, the notice issued for the first time on 28.04.2021, is clearly barred by limitation as per the provisions of Section 147 read with section 148 read with section 149 of the Act as it is existed prior to 01.04.2021. Therefore, considering the facts of the assessee's case, we are inclined to hold that the assessment is barred by limitation and is quashed. Ground nos.2,3 and 4 in this appeal are allowed.

031. As we have already quashed the assessment, other grounds raised by the assessee in the memorandum of appeal are not being adjudicated at this stage.

032. The appeal of the assessee in ITA No. 1036/KOL/2025 for A.Y. 2014-15 is allowed on legal issue."

- 4.3. Considering the facts of the assessee's case in the light of the above decision , we are inclined to hold that the assessment is barred by limitation and is consequently quashed. The appeal of the assessee is allowed.
5. Coming to Revenue's appeal, since, we have already allowed the Cross Objection of the assessee by quashing the assessment framed by the Id. AO, the appeal of the Revenue becomes infructuous and hence, dismissed.
6. The Cross Objection of the assessee is allowed and the appeal of the Revenue is dismissed.

**A.Y. 2015-16****ITA no.2551 /KOL/2025 & CO 3/Kol/2026**

7. The Revenue has challenged the order of the Id. CIT (A) deleting the additions as made by the Id. AO in respect of trading loss claimed by the assessee in the guise of Currency Option transactions.
8. The assessee by way of Cross Objection has challenged the notice issued u/s 148 of the Act in respect of A.Y. 2015-16, being time barred by limitation in consonance with the decision of the Hon'ble Apex Court in the case of Union of India and other Vs. Rajeev Bansal [2024] 469 ITR 46 (SC), dated 03.10.2024. Since, the assessee has raised legal issue in the cross objection, we are inclined to decide the CO first.

8.1. The facts in brief are that the assessee filed its original return of income on 30.09.2015 showing total income at Rs. 6,51,140/-. Later on, Search and Seizure operation u/s. 132(1) of the Act was conducted on 03.07.2018 at the MLA Group of companies and on subsequent

dates. In the course of said Search and Seizure operations, incriminating documents pertaining to the assessee were found. Thereafter, assessment was framed u/s. 153C of the Act on 30.04.2021. The case of the assessee was selected for reassessment u/s. 147 of the Act, after following the guidelines of Hon'ble Supreme Court order dated 04/05/2022 in the case of Union of India & Ors. Vs. Ashish Agarwal as well as the CBDT's Instruction No. 01/2022 dated 11.05.2022. Subsequently, notice u/s.148 of the Act was issued upon the assessee on 29/04/2022. Accordingly, the assessment was framed u/s 147 of the Act vide order dated 19.03.2024 by assessing the total income at ₹ 4,30,07,526/-.

8.2. In the appellate proceedings, the Id. CIT (A) allowed the appeal of the assessee.

8.3. After hearing the rival contentions and perusing the materials available on record, we find that the case was selected for re-assessment u/s 148 of the Act on 29/04/2022 by treating the notice issued on 30/06/2021 u/s 148 as deemed notice issued u/s 148A(b) of the Act, which is beyond six years. Since the period of six years expired on 31.03.2022, although the original assessment made u/s 153C of the Act on 30.04.2021 and assessee has disclosed all the facts before the Id. AO at the time of assessment. The Hon'ble Supreme Court in the case of Rajeev Bansal (supra) has categorically settled the legal position on the validity and the limitation of such notices. Therefore, the notice u/s 148 of the Act was issued beyond the time period of six years, therefore, the reassessment proceedings are not valid. Considering the facts of the assessee's case in the light of the

aforesaid decisions, we are inclined to uphold the order of Id. CIT (A) by dismissing the appeal of the Revenue.

9. Coming to Revenue's appeal, since, we have already allowed the Cross Objection of the assessee for A.Y. 2015-16 by quashing the assessment framed by the Id. AO, the appeal of the Revenue become infructuous and hence, dismissed.
10. The Cross Objection of the assessee is allowed and the appeal of the Revenue is dismissed.
11. To sum up, both the cross objections of the assessee's appeal are allowed and the appeals of the Revenue are dismissed.

Order pronounced in the open court on 26.02.2026.

Sd/-  
(PRADIP KUMAR CHOUBEY)  
(JUDICIAL MEMBER)

Sd/-  
(RAJESH KUMAR)  
(ACCOUNTANT MEMBER)

Kolkata, Dated: 26.02.2026

*Sudip Sarkar, Sr.PS*

Copy of the Order forwarded to:

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

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Kolkata