

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

**SHRI RAJESH KUMAR, ACCOUNTANT MEMBER  
PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER**

**I.T.A. No. 2651/Kol/2025  
(Assessment Year 2019-2020)**

**Ekta Merchants Private Limited,**

1B, Black Burn Road, Bow Bazar,

S.O. Kolkata - 700012

[PAN: AACCE5431C]

..... **Appellant**

**vs.**

**Income Tax Officer,**

**Ward 5(1), Kolkata,**

Aayakar Bhawan, P-7,

Chowringhee Square,

Kolkata - 700069

..... **Respondent**

**Appearances by:**

Assessee represented by

: S.M. Surana, Advocate

Sunil Surana, FCA

Department represented by

: Ranu Biswas, CIT-DR

Date of concluding the hearing

: 22.01.2026

Date of pronouncing the order

: 05.03.2026

**ORDER**

**Per Rajesh Kumar, AM**

The present appeal filed by the assessee arises from order dated 16.07.2025 passed u/s 250 of the Income Tax Act, 1961 (hereafter "the Act") by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to "the Ld. CIT(A)] for AY 2019-20.

2. At the outset, we observe from the appeal folder that the appeal of the assessee is barred by limitation by 45 days for which the condonation petition was filed. After perusing the contents of the application, we find

that the delay is attributable to bonafide and genuine reasons. Therefore, we are inclined to condone the delay and admit the appeal for adjudication.

3. The issue raised in Ground No. 2 is against the invalid notice issued u/s 148A(b) of the Act giving less than 7 days to comply the notice and therefore, the same is bad in law and so is consequent assessment framed by the AO.

4. The facts in brief are that the assessee filed return of income on 31.10.2019 declaring total income at Rs. 2,17,350/-. Thereafter, the AO on the basis of insight portal information noted that there were substantial credits amounting to Rs. 10,71,70,000/- in the bank account of the assessee from various companies which were either non-filer or struck off or not having financial creditworthiness. Consequently, the AO issued show cause notice u/s 148A(b) of the Act on 31.03.2023 calling upon the assessee to reply on or before 25.04.2023 thereby giving assessee only 5 days time to reply to the said notice which is less than 7 days as is required under the Act. The case of the assessee was reopened by issuing notice u/s 148 of the Act on 04.05.2023 after passing order u/s 148A(d) on 04.05.2023. Pertinent to state that another notice was given on 26.04.2023 u/s 148(b) of the Act giving the assessee time to reply on or before 28.04.2023 which was again less than 7 days. The assessee duly complied with the notice u/s 148 of the Act filing the return of income on 05.02.2024 declaring income of Rs. 2,17,350/-. Thereafter, assessee was issued statutory notices and it complied with the said notices. However, finally, the AO made addition at Rs. 10,71,70,000/- as unexplained cash credit to the income of the assessee in the assessment framed u/s 147 of the Act r.ws. 144B of the Act dated 12.03.2025.

5. In the appellate proceeding, the Ld. CIT(A) dismissed the appeal of the assessee.

6. After hearing the rival contention and perusing the material available on record, we find that in the show cause notice issued u/s 148A(b) of the Act, time period to respond to the said notice was less than 7 days as stated hereinabove. Therefore, the said notice is invalid and nullity in the eyes of law as the period granted for filing the reply is less than 7 days period as contemplated in the said provision vitiating the said notice as well as consequent assessment framed. The case of the assessee is squarely covered by the decision of the following case laws:

1. judgment of Hon'ble Karnataka High Court in the case of Panjos Builders P Ltd. vide WP No. 23572 of 2023, dated 08.01.2024.
2. Judgment of Bangalore ITAT in the case of E Ashwath Narayan vide ITA No. 1920/Bang/2024, dated 17.04.2025
3. Judgment of Kolkata ITAT in the case of Blackstone Overseas Pvt. Ltd. vide ITA No. 2026/Kol/2025, dated 18.12.2025
4. Judgment of Kolkata ITAT in the case of Piyush Kumar Sarda vide ITA No. 542/Kol/2025, dated 23.07.2025

7. In the case of Panjos Builders Pvt. Ltd. Vs. ITO/PCIT/NFAC(supra), the Hon'ble High Court has held as under:

*7" So also, having regard to the minimum period of seven days prescribed under Section 148A(b) of the IT Act as held by the High Court of Bombay in the case of Mukesh J. Ruparel Vs. Income Tax Officer, Ward 27(2) (1) W.P.No.15268/2023 dated 25.07.2023, that if notice under Section 148A(b) prescribes a period lesser than a period of seven days as contemplated in the said provision, the said notice would be vitiated resulting in quashment of not only the notice but also the subsequent assessment orders, penalty notices, orders, etc. In the aforesaid judgment of the Bombay High Court, it is held as under:*

*"Petitioner is impugning a notice dated 15th March 2023 issued under Section 148A(b) of the Income Tax Act, 1961 (the Act), the order dated 31st March 2023 passed under Section 148-A(d) of the Act and notice dated 31 March 2023 issued under Section 148 of the Act.*

*2. Petitioner is an individual who did not file return of income for Assessment Year 2016-17 because his income was less than taxable limit.*

3. Petitioner received a notice dated 15th March 2023 under Clause 148A(b) of the Act from Respondent No. 1, stating that Respondent No.1 has information which suggests that income chargeable to tax for Assessment Year 2016-17 has escaped assessment within the meaning of Section 147 of the Act. Petitioner was provided with information/ enquiry on which reliance was placed in the form of annexure to the notice and Petitioner was called upon to show cause on or before 28th March 2023 as to why a notice under Section 148 of the Act should not be issued. The information which suggested that there has been an escapement of income from assessment provided details of a property that Petitioner had purchased. Petitioner was directed to provide head-wise computation of income, details of purchase of immovable property during Financial Year 2015-16 supported with copy of registered agreement with annexure II, details of payment made and source of acquisition of said immovable property.

4. Petitioner submitted an elaborate reply on 18th March 2023 and also raised certain objections. The main objection raised was that under the provision of Section 148A(b) of the Act, the assessee should be provided an opportunity of being heard by serving upon the assessee a notice to show cause within such time as may be specified in the notice being not less than seven days but not exceeding thirty days from the date on which said notice has been issued. Since the notice dated 15th March 2023 provides only for five days when the law requires minimum seven days to be given, the notice itself was bad-in-law.

5. Along with reply, Petitioner also provided a photo copy of the notarised affidavit of Petitioner's brother affirmed on 18th March 2023, in which the brother has confirmed of giving gift of Rs.75 lakhs to Petitioner on 26th March 2019, which is much beyond the relevant Assessment Year.

6. Respondent No.1 has passed the impugned order dated 31st March 2023 under Clause D of Section 148A of the Act. In the order, Respondent No.1 states that from the statement issued by HDFC Bank for the period 1st April 2018 to 31st March 2019 of the brother, it is seen that there is a credit entry of Rs.1 Crore on 19th March 2019, out of which Rs. 75 lakhs has been paid to Petitioner on 26th March 2019. Respondent No. 1 also states that the gift deed submitted by Petitioner from the brother has not been notarised.

7. Moreover, Respondent No.1 states that income chargeable to tax has escaped assessment without mentioning what is the amount of income that has escaped assessment. Further, the approval under Section 151 of the Act which is annexed to the impugned order is of one Poonam Vijay Chhabria whose PAN number is also entirely different from the PAN number of Petitioner. Respondent No. 1 is totally silent about the objections raised by Petitioner of minimum seven days notice required. Mr. Gandhi states that on each of these grounds not only the impugned order dated 31 March 2023 but also the notice dated 31 March 2023 itself should be quashed and set aside.

8. No reply has been filed though Petition was served more than a month ago. We have, therefore, decided to go ahead and consider the matter and dispose it since we were, prima facie, satisfied that there was merit in Petitioner's submissions.

Section 148-A(B) of the Act reads as under:-

*"provide an opportunity of being heard to the assessee, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a)."*

9. The notice dated 15th March 2023 gives time only up to 20th March 2023 to show cause. We have to note that even the guidelines dated 1 August 2022 for issuing of notice under Section 148 of the Act also provide that if the result of an enquiry / information available suggests that income chargeable to tax has escaped assessment, assessm the Assessing Officer shall provide an opportunity of being heard by assessee by issuing the show cause notice under Section 148A(b) of the Act and the notice shall provide between seven to thirty days time for the assessee to submit their reply. A template of the show cause notice is also annexed to the guidelines. Therefore, in view of the guidelines, we would also read that the minimum seven days required to be made as a mandatory requirement and failure to comply with would render a notice itself invalid. Therefore, on this ground alone, the notice requires to be quashed and set aside.

14. Accordingly, we hereby quash and set aside the notice dated 15th March 2023 issued under clause (b) of Section 148-A of the Act, the impugned order dated 315 March 2023 issued under clause (d) of Section 148A of the Act and consequent notice dated 31st March 2023 issued under Section 148 of the Act.

15. Petition disposed. There shall be no order as to costs.

8. In the instant case, it is an undisputed fact that the Notice at Annexure A dated 21.03.2022 is not signed either physically or digitally but the impugned notice also prescribes a period of six days, which is lesser than the minimum prescribed period of seven days as contemplated under Section 148A(b) of the IT Act. Under these circumstances, in the light of the judgment of this Court in Begur's case and the judgment of the Bombay High Court in Mukesh's case supra, I am of the considered opinion that the impugned notice at Annexure A and also consequential proceedings, orders, notices, etc., deserves to be quashed by reserving liberty in favour of the respondents to take recourse to such remedies as available in law."

8. We, therefore, respectfully following the decision of the Hon'ble High Court, quash the notice u/s 148A(b) of the Act and consequent the assessment framed by the AO.

9. The issue raised in Ground No. 3 , 4 & 5 are not pressed and hence no need any adjudication.

10. Ground No. 5 is against the notice u/s 148 of the Act dated 04.05.2023 giving less than 3 months time to complete with the notice and therefore same is bad in law and is consequent assessment framed.

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

Order pronounced on 05.03.2026

Sd/-  
**(Pradip Kumar Choubey)**  
**Judicial Member**

Sd/-  
**(Rajesh Kumar)**  
**Accountant Member**

Dated: 05.03.2026  
AK, Sr. P.S.

*Copy of the order forwarded to:*

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches

