

**THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH “B” NEW DELHI  
BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT, MEMBER  
AND  
SHRI SUDHIR HUMAR, JUDICIAL MEMBER**

**ITA No.6662/Del/2025  
Assessment Year: 2015-16**

Sarit Gupta (HUF) CP-101 Maurya Enclave Pitampura, New Delhi- 110088	<b>Vs.</b>	Income Tax Officer Ward-43(6) Delhi
<b>PAN No. AATHS9970E</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Shri Amarbir Singh Walia, Adv, Shri Manish Mittal, Adv, Shri Aman Gupta, CA.
Respondent by	Shri Rajesh Kumar Dhanesta, Sr. DR

Date of hearing	26.02.2026
Date of pronouncement	13.03.2026

**ORDER**

**PER SUDHIR KUMAR JM:**

The assessee preferred the appeal, challenging the order dated 28-08-2025 passed by National Faceless Appeal Centre Delhi (in short NFAC) arising out from the assessment order dated 17-05-2023

passed by the Assessing Officer for A.Y. 2015-16 under the section 147 r.w.s 144B of the Income Tax Act, 1961(In short “the Act”).

2. The assessee has raised the legal grounds in appeal that the notice issued u/s 148 of the Act is barred by limitation. This goes to root the matter and hence, is taken up first for adjudication.

3. The brief facts of the case are that the assessee is a HUF and filed the return of income by declaring income of Rs.5,04,080/- on 16-02-2016 for A.Y.2015-16. The assessee has admitted long term capital gains on sale of shares for an amount of Rs.1,83,76,703/- and claimed as exempted income u/s 10(38) of the Act. In this case information was received to the department that the share price of Achal investment limited is one of the penny stock companies listed with Bombay Stock Exchange was artificially rigged to provide entry of bogus long term capital gain and it was found that the assessee is one of the beneficiaries who had sold shares of Achal investment limited for Rs.1,87,51,703/- and availed entry of bogus long term capital gain for an amount of Rs.1,83,76,703/-. The department initiated the proceedings. The assessee has not furnished required information, order u/s 148A(d) dated 26-07-2022 was passed and notice under section 148 of the Act dated 26-07-2022 was issued, In the response of the notice u/s 148 of the Act the assessee was filed its return of income for A.Y.2015-16 on 21-11-2022 admitting taxable income of Rs.5,04,080/-. Subsequently, during the proceedings the assessee was asked to furnish the sources of income along with other information. The Assessing Officer completed the assessment after making the

additions of RS. 1,83,76,703/- and penalty proceedings was also initiated.

4. Aggrieved the order of the AO the assessee preferred the appeal before the NFAC who vide order dated 28-08-2025 dismissed the appeal. Being, aggrieved the order of the Ld. NFAC, the assessee is in appeal before the Tribunal.

5. Ld. AR for the assessee has raised the legal issue and stated that the notice dated 26-07-2022 issued by AO u/s 148 of the Act is time barred. In this regard he has submitted as under;

*Original notice u/s 148 of the Act(old Regime) was issued on 31-05-2021*

*Time remaining till 30-06-2021* *30 days*

*Letter issued by AO supplying information with reference*

*to section 148A(b) in consequence to Hon'ble Supreme Court*

*Order in Ashish Agarwal dated 04-05-2022* *20-05-2022*

*Replied filed before AO* *03-06-2022 & 10-06-2022*

*Extended date by which notice should have* *30-06-2022*  
*been issued u/s 148*

*Order u/s 148 A(d) passed on* *26-07-2022*

*Notice u/s 148 of the Act* *26-07-2022*

6. The Ld. AR of the assessee has submitted that in the case of Union of India and Others vs. Rajeev Bansal [2024]469ITR 46 (SC) the revenue conceded for the A.Y. 2015-16 all notices under section 148 of the Act issued on or after April,1 2021 will have to be dropped as they will not fall for completion during the period prescribed under the Taxation and other Laws(Relaxation and Amendment of Certain Provisions) Act, 2020.the relevant extract is as under;

(e) The Finance Act,2021 (2021) 432 ITR (Stat)52 substituted the old regime for reassessment with a new regime. The first proviso to section

149 does not expressly bar the application of Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. Section 3 of the Taxation and other laws (Relaxation and Amendment of certain Provisions) Act, 2020 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 Taxation and other laws (Relaxation and Amendment of Certain Provisions) Act, 2020 then all the notices issued between April 1,2021 and June 30,2021 pertaining to the assessment years 2013-14, 2014-15, 2015-16, 2016-17 and 2017-2018 will be within the period of limitation as explained in the tabulation below:

Assessment year	Within Years	Expiry of Limitation read with TOLA for (2)(3)	Within Six Years(4)	Expiry of Limitation read with TOLA
2013-14	31-03-2017	TOLA not applicable	31-03-2020	30-06-2021
2014-15	31-03-2018	TOLA not applicable	31-03-2021	30-06-2021
2015-16	31-03-2019	TOLA not applicable	31-03-2022	TOLA not applicable
2016-17	31-03-2020	30-06-2021	31-03-2023	TOLA not applicable
2017-18	31-03-2021	30-06-2021	31-03-2024	TOLA not

				applicable
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In the case of Union of India and Others vs. Rajeev Bansal [2024]469ITR 46 (SC) the Hon’ble Supreme Court held as under:

*“110. The effect of the creation of the legal fiction in Ashish Agarwal (Supra) was that it stopped the clock of limitation with effect from the date of issuance of section 148 notices under the old regime {Which is also the date of issuance of the deemed notices}. As discussed in the preceding segment of the judgment, the period from the date of the issuance of the deemed notices till the supply of relevant information and material by the assessing officer to the assessee in terms of the direction issued by this court in Ashish Agarwal (Supra) has to be excluded from the computation of the period of limitation. Moreover, the period of two weeks granted to the assessee to reply to the cause notices must be excluded in terms of the third proviso to section 149.*

*111. The clock started ticking for the Revenue only after it received the response of the assessee to the show cause notices. After the receipt of the reply, the assessing officer had to perform the following responsibilities; (i) consider the reply of the assessee under section 149A(C );(ii) take a decision under section 149A(d ) based on the available material and the reply of the assessee; and (iii) issue a notice under section 148 if it was a fit case for reassessment. Once the clock started ticking, the assessing officer was see State of AP v. AP Pensioners Association, (2005) 13 SCC 161 [28]. [This court observed that the “legal fiction undoubtedly is to be construed in such a manner*

*so as to enable a person, for whose benefit such legal fiction has been created, to obtain all consequences flowing there from.”]*

*PART F required to complete these procedures within the surviving time limit. The surviving time limit, as prescribed under the Income Tax Act read with TOLA, was available to the assessing officers to issue the reassessment notices under section 148 of the new regime.*

*112. Let us take the instance of a notice issued on 1 May 2021 under the old regime for a relevant assessment year. Because of the legal fiction, the deemed show cause, notice will also come into effect from 1 May 2021. After accounting for all the exclusions, the assessing officer will have sixty –one days [days between 1 May 2021 and 30 June 2021] to issue a notice under section 148 of the new regime. This time starts ticking for the assessing officer after receiving the response of the assessee. In this instance, if the assessee submits the response on 18 June 2022, the assessing officer will have sixty-One days from 18 June 2022 to issue a reassessment notice under section 148 of the new regime. Thus, in this illustration, the time limit for issuance of a notice under section 148 of the new regime will end on 18 August 2022.”*

7. In the above cited case, the revenue concedes that for the assessment year 2015-16, all notices issued on or after 1st April 2021 will have to be dropped as they will not fall for completion during the period prescribed under TOLA. Ld. AR also relied on the following decision:

*(i) Laveesh Bhandari v. assistant Commissioner of Income Tax, Circle 28(1), Delhi & Ors. (Delhi High Court)*

*(ii) Assistant Commissioner of Income tax, Circle 34(1), Delhi v. Brij Bhusahan Gupta (ITAT-Delhi)*

*(iii) Anil Kumar Garg v. Deputy Commissioner of Income Tax circle 43(1) Delhi (ITAT-Delhi)*

*(iv) Income tax Officer, Ward 14(3) New Delhi v. Kolahai Infotech Private Limited (ITAT- Delhi)*

*(v) Income Tax officer Ward-62(1) New Delhi v. Girish Kumar Gupta (ITAT- Delhi) Tyagi Pipe Craft. Pvt. Ltd. v. ITO Ward -25(3) Delhi 2025 (7) TMI 1900 –ITAT Delhi*

8. The Ld. DR relied upon the orders of the lower authorities. He submitted that the assessee did not appeared before the Ld. NFAC. He further submitted that the assessee has not raised the legal issue before the Ld. NFAC, therefore tribunal has no power to decide the legal issue at this stage.

9. We have heard the revival contention of the parties and gone through the material available on record. Ld. DR submitted that the issue of time barred has not been taken before the Ld. NFAC then tribunal has no power to decide the issue at this stage. The assessee has the right to raise the legal issue during the appeal proceedings and the tribunal can decide this issue being legal issue. The argument of the Ld. Sr. DR is not tenable.

10. In view of the observation of the Hon'ble Supreme Court in the case of Rajeev Bansal (Supra) the revenue concedes that for the assessment year 2015-16 all notices on or after April 1, 2021 will have to be dropped as they will not fall for completion during the period prescribed under the Taxation and other Laws, since, the notice is u/s

148 of the Act is issued on 26-07-2022 the said notice is to be treated as time barred by limitation and consequentially reassessment proceedings would be liable to be quashed as void ab initio. Respectfully following the decision of the Hon'ble Supreme Court, we hold that the notice issued u/s 148 of the Act on 26-07-2022 is time barred by limitation. Accordingly the legal issue raised by the assessee is allowed.

11 Since we have decided the legal ground in favour of the assessee, the other grounds have become academic and keep them open for adjudication.

12. In the result the appeal of the assessee is allowed.

Order pronounced in the open court on 13/03/2026.

**Sd/-**

**(S. RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

**Sd/-**

**(SUDHIR KUMAR)  
JUDICIALMEMBER**

Dated: 13/03 /2026

“SR Bhatnagar”

Copy forwarded to:

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

Asst. Registrar, ITAT, Delhi

