IN THE INCOME TAX APPELLATE TRIBUNAL
"CUTTACK BENCH, CUTTACK
VIRTUAL HEARING AT KOLKATA

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

ITA No.154/CTK/2026
Assessment Year: 2020-21

Alok Khatua, Cuttack Madhupur, Belagachhia, Baranga, Cuttack-754005. (PAN: EEYPK6293H)	Vs	**ITO, Ward-1(1), Cuttack**
(Appellant)		**(Respondent)**

Assessee by : Shri S. K. Sarangi & Bishwa Jyoti Pattnaik, ARs
Revenue by : Shri Shakeer Ahamed, Sr. DR

Date of Hearing : 16.03.2026
Date of Pronouncement : 16.03.2026

ORDER

PER BENCH:

This is an appeal filed by the assessee against the order of the NFAC, Delhi [hereinafter referred to as the 'CIT(A)'] in appeal no.NFAC/2019-20/10499078 dated 18.12.2025 for the assessment year 2020-21.

2. Shri S. K. Sarangi & Bishwa Jyoti Pattnaik, ARs, represented on behalf of the assessee and Shri Shakeer Ahamed, Sr. DR represented on behalf of the revenue.

3. During the course of hearing, the ld. AR drew our attention to the notice issued u/s 148A(b) of the Act 22.03.2024, which reads as under:

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE INCOME TAX OFFICER
ITO, WARD 1(1), CUTTACK

To, **ALOK KHATUA** **MADHUPUR BEKLABACHHAIA , BARING** **CUTTACK 754005 , Odisha** **India**	

PAN:	A.Y:	Dated:	DIN & Notice No:
EEYPK6293H	2020-21	22/03/2024	ITBA/AST/F/148A(SCN)/2023-24/1063213857(1)

Notice under clause(b) of section 148A of the Income-tax Act,1961

Sir/Madam/M/s

Whereas I have information which suggests that income chargeable to tax for the Assessment Year **2020-21** has escaped assessment within the meaning of section 147 of the Income-tax Act, 1961. The details of the information/ enquiry conducted on which reliance is being placed, along with supporting documents, are enclosed with this notice.

2. You are required to show-cause as to why, in view of the details contained in enclosures mentioned in point number 1 above, a notice section 148 of the Income tax Act, 1961 should not be issued.

3. You may submit your reply to this notice, along with supporting documents (if any) on the above mentioned issues on or before **29/03/2024** electronically at www.incometax.gov.in.

PRAKASH KUMAR KANUNGO
ITO, WARD 1(1), CUTTACK

3.1 It was the submission that the said notice issued u/s 148A(b) is dated 22.03.2024 and the time given for responding is 29.03.2024. It

was the submission that the assessee has not been granted clear seven days in view of the decision of the Hon'ble Jharkhand High Court in the case of Satish Kumar in W.P (T) No.2640 of 2023 dated 28.08.2023. The ld. AR relied on the decision of the Coordinate Bench of the Tribunal in the case of Prasanna Kumar Sethy vs. ITO in ITA No.721/CTK/2025, wherein on identical issue the Tribunal has held as under:

> *"2. It was submitted by the Ld. AR that in the present appeal before the Tribunal the assessee is challenging the original assessment order itself insofar as the reopening is invalid. It was submission that the notice issued u/s.148A(b) of the Act is dated 07.03.2022 and the time given for responding is 14/03/2022. It was the submission that the statute requires that the notice should give at least 7 days' time. It was the submission that the said notice did not give the assessee the requisite 7 days' time and that the assessment proceedings were ex-parte proceedings. It was the submission that as seven clear days has not been granted to the assessee, in view of the decision of the Hon'ble Jharkhand High Court in the case of Satish Kumar in W.P.(T) No.2640 of 2023, dated 28.08.2023, the clear seven days having not been given to the assessee, the notice is liable to be treated as invalid. It was the submission that said decision of the Hon'ble Jharkhand High Court has also been followed by the ITAT Ranchi Bench of the Tribunal in the case of Mantosh Kumar, passed in ITA No.80/Ran/2024, dated 18.08.2025, wherein the coordinate bench of the Tribunal has held in paras 3 to 7 as follows :-*
>
> > *3. It was submitted by ld AR that the assessee is challenging the notice u/s.148A(b) of the Act dated 14.3.2022, wherein, the assessee has been asked to file his response by 21.3.2022. It was the submission that this order is invalid insofar as the assessee has not been given seven days time as required under the provisions of section 148A(b) of the Act. The notice u/s.148A(b) of the Act is as follows:*
> >
> > *"Notice under clause (b) of Section 148A of the Income Tax Act, 1961. Sir/Madam/M.s Whereas I have information which suggests that income chargeable to tax for the assessment year 2018-19 has escaped assessment within the meaning of section 147 of the Income tax Act, 1961. The details of the information and enquiry, if conducted, are enclosed with this notice in Annexure-A.*
> >
> > *2. You are requested to show cause as to why, in view of the details contained in Annexure-A, a notice u/s.148 of the Income tax Act, 1961 should not be issued.*
> >
> > *3. You may, to the extent technologically, feasible, submit your response with supporting documents (if any) on the above mentioned issues*

electronically in e-proceedings facility through your account in-e-filing portal at your convenience on or before 21.3.2022.

4. This notice is being issued after obtaining the prior approval of the PCIT, Dhanbad, accorded on date 11.3.2022 vide reference No.100000029037826."

4. It was the submission that the Co-ordinate Bench of this Tribunal in the case of Imran Ahmad vs ITO, Giridih in ITA No.357/Ran/2024 order dated 18.12.2024 relying upon the decision of Hon'ble Jurisdictional High Court in the case of Satish Kumar vs Pr. CIT passed I n W.P.(T) No.2640 of 2023 dated 28.8.2023, held as follows:

"5. The entire periphery and ambit of the legal ground is confined to the interpretation of expression "being not less than 7 days..." That as demonstrated by the assessee the notice dated 12th March, 2022 u/s.148A of the Act states that the assessee shall submit the response with supporting documents on or before 18th March, 2022. Therefore, as per section 148A(b) of the Act, excluding these two das ie. Date of issuance of the notice and the date on when response is sought from the assessee, a clear 7 days time should have been provided to the assessee as has been held by the Hon'ble Jurisdictional High Court in the case of Satish Kumar vs Pr. CIT passed I n W.P.(T) No.2640 of 2023 dated 28.8.2023. The relevant part of the judgment is extracted as follows:

7. To decide the lis involved in the instant application it is necessary to peruse the provisions of the Act which governs the issue in hand, which is quoted herein below:-

Section 148A(b) of the I.T. Act.

"148A (b) 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);"

From bare perusal of Section 148A(b) it appears that minimum 7 days is required to be given to the Assessee for filing reply. This 7 day is to be calculated by ignoring the date of issue and the last date of submission. In other words, minimum 7 clear days has to be provided to the Assessee for filing reply.

In this regard reference may be made to the case of Pioneer Motors (Private)Ltd. Vs Muncipal Council, Nagercoil reported in AIR 1967 sc 684, wherein at paragraph 8 & 9, the Hon'ble Apex Court has deliberated the issue with regard to counting of dates.

"8. The words "not being less than one month" do imply that clear one months's notice was necessary to be given that is both the first day and the last day of the month had to be excluded.

"When……. 'not less than' so many days are to intervene, both the terminal days are excluded from the computation". 9. …….. In every case the words have to be construed in the context taking into consi

deration the language used and the object to be achieved. As we have said above, the use of the words "not being less than one month" implies the giving of a clear month excluding both the first and the last day of the month Emphasis supplied.

6. Considering the aforesat5ed judgment as per the notice issued to `the assessee u/s.148A of the Act, the assessee gets only five clear days for response i.e. excluding the date of issuance of the notice and the date on which the response is sought for. This is, therefore, violative of the mandate as prescribed in the Act and also as per the principles laid down by the Hon'ble High Court (supra). Therefore, on this score alone, the notice u/s.148A(b) of the Act is hereby quashed and set aside and all the subsequent proceedings becomes a nullity and non est in the eyes of law."

5. It was the submission that as in this notice seven days time excluding the date of issue of notice and the date of response has not been provided to the assessee, the notice u/s.148A (b) is liable to be quashed. 6. In reply, ld Sr DR vehemently supported the order of the Assessing Officer.

7. We have considered the rival submissions. As it is noticed that the notice issued u/s.148A(b) of the Act has not been provided to the assessee the clear seven days time for responding the said notice, respectfully following the decision of the Co-ordinate Bench in the case of Imran Ahmad (supra), wherein, the Bench has followed the judgment of Hon'ble Jurisdictional High Court in the case of Satish Kumar(supra), the notice issued u/s.148A(b) of the Act stands quashed. Consequently, the assessment order passed u/s 147 r.w.s 144 of the Act stands quashed

3. The Ld. AR also drew our attention to the notice issued u/s.148A(b) of the Act, which reads as follows:-

ITA No.721/CTK/2025

(1)

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE INCOME TAX
OFFICER
ITO, WARD 2(1), SAMBALPUR/

To, PRASANNA KUMAR SETHY KANPUR DUMUKA , MARSAGHAT KENDRAPARA 754213 , Orissa India	

PAN:	A.Y:	Dated:	DIN & Notice No:
FUDPS4347Q	2018-19	07/03/2022	ITBA/AST/F/148A(SCN)/2021-22/1040409671(1)

Notice under clause(b) of section 148A of the Income-tax Act,1961

Sir/Madam/M/s

Whereas I have information which suggests that income chargeable to tax for the Assessment Year **2018-19** has escaped assessment within the meaning of section 147 of the Income-tax Act, 1961. The details of the information and enquiry, if conducted, are enclosed with this notice in Annexure A.

2. You are required to show-cause as to why, in view of the details contained in Annexure A, a notice section 148 of the Income tax Act, 1961 should not be issued.

3. You may, to the extent technologically feasible, submit your response with supporting documents (if any) on the above mentioned issues electronically in 'e-proceeding' facility through your account in e-filing portal at your convenience on or before **14/03/2022**.

4. This notice is being issued after obtaining the prior approval of the **PCIT, Sambalpur** accorded on date **06/03/2022** vide Reference No. **100000028726316**.

SWAPAN KUMAR MOHANTY
ITO, WARD 2(1), SAMBALPUR/

Note: If digitally signed, the date of digital signature may be taken as date of document.
,AAYAKAR BHAWAN, AINTHAPALI, SAMBALPUR, Orissa, 768004
Email: SAMBALPUR.ITO2.1@INCOMETAX.GOV.IN,

Note:- The website address of the e-filing portal has been changed from www.incometaxindiaefiling.gov.in to www.incometax.gov.in.
* DIN- Document Identification No.

4. It was the submission that as the notice issued u/s.148A(b) of the Act was an invalid notice, the original assessment order itself is liable to be quashed.

5. In reply, the Ld.CIT DR drew our attention to the decision of the Hon'ble Supreme Court in the case of Anuj Ghuliani vs. ITO, reported in [2025] 478 ITR 528 (SC) as also the decision of the Hon'ble Delhi High Court in the case of Anuj Ghuliani, reported in 478 ITR 526 (Delhi-HC) to submit that wherein the Hon'ble Delhi High Court has categorically held that the proceedings are to be

reconsidered by the AO after considering the belated reply filed by the assessee in response to the notice issued u/s.148A(b) of the Act. The Hon'ble Delhi High Court has held as follows:-

> *6. In view of the above, the impugned order dated 31.08.2024 passed under Section 148A(d) of the Act as well as the notice dated 31.08.2024 issued under Section 148 of the Act are set aside. The AO shall consider the reply already filed by the petitioner on 27.08.2024 and pass an appropriate order within a period of four weeks. In the event the AO considers that it is a fit case for issuing notice under Section 148 of the Act, necessary approval shall be obtained from the concerned Chief Commissioner of Income Tax as was the requirement at the material time.*

6. It was the submission that the liberty must be granted to the revenue to initiate proceedings, if any, permissible under law.

7. We have considered the rival submission. A perusal of the facts in the present case clearly shows that clear 7 days has not been granted to the assessee in respect of the notice issued u/s.148A(b) of the Act. This notice is directly in violation of the law as laid down by the Hon'ble High Court of Jharkhand in the case of Satish Kumar referred to supra. A perusal of the decision of the Hon'ble Delhi High Court in the case of Anuj Ghuliani (supra), shows that the issue therein was not a challenge to the time limit of 7 days. The issue was "conducting enquiry, providing opportunity before issue of notice - initial notice allowing 5 days to reply - minimum 7 days required to be granted under the statue for the assessee to respond - assessee filing reply after 5 days - order and notice set aside with the direction to the AO to consider the reply filed by the assessee and passed appropriate orders." The issue before the Hon'ble Delhi High Court admittedly is not in respect of not granting the assessee the 7 days required under the statue in respect of the notice issued u/s.148A(b) of the Act. That was a case where the assessee has claimed the adequate opportunity having not been provided. The Hon'ble Delhi High Court in the facts of that case has held that another opportunity should be granted to respond to the notice and the delayed response is to be considered. This view of the Hon'ble Delhi High Court has admittedly been upheld by the Hon'ble Supreme Court. These are admittedly not the facts in the appeal before us. As it is noticed that the issue of the limitation provided in the notice u/s.148A(b) of the Act of providing minimum 7 days has been violated and the issue is fully covered by the decision of the Hon'ble High Court of Jharkhand in the case of Satish Kumar, referred to supra, respectfully following the decision of the Hon'ble Jharkhand High Court in the case of Satish Kumar, referred to supra, the notice issued u/s.148A(b) of the Act is held to be invalid and consequently quashed and the assessment order based on the invalid notice also stands quashed."

5. In reply, the ld. Sr. DR vehemently supported the order of the ld. CIT(A).

6. We have considered the rival submissions. A perusal of notice issued u/s 148A(b) clearly shows that the said notice was issued on 22.03.2024 and the time mentioned for responding of the notice is 29.03.2024. This being so and respectfully following the decision of the Coordinate Bench of the Tribunal in the case of Prasanna Kumar Sethy vs. ITO referred supra, the notice issued u/s.148A(b) of the Act is held to be invalid and consequently is quashed and the assessment order based on the invalid notice also stands quashed.

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

Kolkata, the 16th March, 2026.

[Rajesh Kumar]	**[George Mathan]**
लेखा सदस्य/**Accountant Member**	न्यायिक सदस्य/**Judicial Member**

Dated: .03.2026.
RS

Copy of the order forwarded to:
1. Appellant -
2. Respondent –
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar