

**IN THE INCOME TAX APPELLATE TRIBUNAL
"F" BENCH MUMBAI**

**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
HON'BLE SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**ITA No. 6921/Mum/2025
(Assessment Year: 2015-16)**

Varun Enterprises Shop No. 7, F-2 Type Building Sector No. 3, Nerul, Navi Mumbai - 400706	Vs.	ACIT, CIRCLE - 27(3), Mumbai 3 rd Floor, Tower No. 6, Vashi Railway Station, Commercial Complex, Vashi, Navi Mumbai - 400703
PAN/GIR No. AAKFV3878R		
(Applicant)		(Respondent)

Assessee by	Shri Subodh RatnaParkhi
Revenue by	Shri Akhtar Hussain Ansari, Sr. DR.

Date of Hearing	24.02.2026
Date of Pronouncement	01.04.2026

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order 19.08.2025 passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the National Faceless Appeal Centre, Delhi (NFAC) for the assessment year 2015-16. The following grounds are reproduced below:

"1. The Hon CIT(A) erred in upholding the reopening of assessment for A.Y. 2015-16 by way of notice issued u/s 148 of the IT Act, 1961 on 29.06.2022, not appreciating

that the reopening was barred by limitation as per section 149 of the I. T. Act, 1961 and therefore the re-opening of assessment u/s 147 was bad in law and the order of assessment framed u/s 147 r.w.s 144B dt. 27.05.2023, flowing from such an invalid notice was also invalid, bad in law, and both were required to be struck down and quashed.

2. The Hon CIT (A) erred in upholding the reopening of assessment, not appreciating that the notice u/s 148 dt. 29.06.2022 was issued by the jurisdictional assessing officer (JAO), ie. DCIT, 27(3), Mumbai, and not in a faceless manner as provided by law and therefore the said notice u/s 148 as well as the assessment order flowing therefrom, were both invalid and bad in law and were required to be struck down and quashed.

3. The Hon. CIT(A) erred in not appreciating that the re-opening of the assessment u/s 147 of the I. Tax Act 1961, by issue of the notice u/s 148 dt 29.06.2022, was not appropriate by law, as the assessment should have been as provided u/s 153C of the IT Act 1961, as the document seized during search action u/s 132 on Mr. Shripal Vora, contained information relating to the appellant and accordingly the re-opening of assessment u/s 147 as well as the order of assessment passed u/s 147 r.w.s 144B on 27.05.2023 were bad-in-law being void-ab-initio and the same are required to be struck down and quashed on that account.

4. The Hon CIT(A) erred in upholding the reopening of assessment by issue of notice u/s 148 of the IT Act, 1961 on 29.06.2022, not appreciating that such reopening was invalid and bad in law and therefore the order of assessment framed u/s 147 r.w.s 144B dt. 27.05.2023, flowing therefrom was also invalid and bad in law and required to be struck down and quashed.

5. The Hon CIT(A) erred in upholding the assessment framed u/s 147 r.w.s 144B of the I. T. Act 1961, without first making a draft assessment order and providing opportunity to the appellant to respond to such draft assessment order as mandated by section 144B of the I.T Act, 1961 and therefore the procedure of faceless assessment as well as principles of natural justice stood breached and for this reason also, the assessment framed

u/s 147 r.w.s 144B on 27.05.2023 be held to be bad-in-law, void-ab-initio and quashed.

6. The Hon CIT(A) erred in upholding the addition of Rs.52,00,000/- made u/s 68 of the IT Act, 1961, as unexplained cash credit in respect of the genuine unsecured loan borrowed from M/s Money Gems, not appreciating that the appellant had discharged the onus placed by sec 68 of the I.T Act, 1961 and addition in the hands of the appellant was based only on surmises and presumptions without any concrete evidence incriminating the appellant and therefore the addition Rs.52,00,000/- on the above count was not warranted by facts and in law and is required to be deleted.

7. The Hon CIT(A) erred in upholding addition of Rs. 4,00,043/- made by disallowing interest expenditure u/s. 68 of the IT Act, 1961 incurred on the unsecured loan borrowed from M/s Money Gems for the reason that addition on account of such unsecured loan is made u/s 68 of the IT Act, without appreciating that the said interest is being incurred on a genuine loan borrowed for business purposes. The addition of Rs. 4,00,043/- is incorrect by facts and in law may kindly be deleted.

8. Without prejudice to the above, the Hon CIT(A) erred in upholding the addition of Rs.4,00,043/- u/s 68 of the I.T Act, 1961, not appreciating that the provisions of section 68 dealing with unexplained cash credit were not attracted to the facts of the matter and therefore the addition was also legally incorrect and bears deletion on that account.

9. The Hon CIT(A) erred in upholding the addition of Rs. 1,43,000/- u/s 69C of the IT Act, 1961, as alleged unaccounted commission paid for obtaining accommodation entry in the form of an unsecured loan from M/s Money Gems, which addition is not justified and therefore may please be deleted.

10. The Hon CIT(A) erred in upholding the addition on the basis the statement of Mr. Shripal Vrajlal Vora, without granting to the appellant any opportunity to cross examine the said person, inspite of the written and oral request during assessment proceedings/video conferencing made

by the appellant, thereby breaching the salient principles of equity, fair play and natural justice and was bad-in-law and void-ab-initio.

11. The appellant craves leave to add, alter, amend, delete and/or vary any of the above grounds of appeal at any time before the decision of the appeal.
”

2. Ground No. 1 raised by the assessee relates to challenging the order of the Ld. CIT(A) in upholding the reopening of assessment for the year under consideration, on the ground that the notice issued under Section 148 of the Act was barred by limitation.

3. In this regard, the Ld. AR reiterated the same arguments as were raised before the Revenue Authorities and submitted that the Ld. CIT(A) erred in upholding the reopening of the assessment for the year under consideration by way of notice issued under Section 148 of the Act on 29.06.2022. It was submitted that the reopening on the basis of the said notice was barred by limitation as per Section 149 of the Act. Thus, it was requested to quash the proceedings of reopening on the basis of an invalid notice. On the other hand, the Ld. DR relied upon the orders passed by the Revenue Authorities.

4. We have heard the counsels for both parties, perused the material placed on record, the judgments cited before us, and the orders passed by the Revenue Authorities. From the records, we noticed that in respect of the year under consideration, i.e., AY

2015-16, six years from the end of the relevant year expired on 31.03.2022. However, it is an undisputed fact that the notice under Section 148 of the Act in the present case was issued only on 29.06.2022, and a copy of the said notice is placed at **Paper Book Page Nos. 28 and 29**. Thus, the notice under Section 148 was beyond the period of limitation prescribed under the first proviso to Section 149(1) of the Act.

5. In this regard, reliance has been placed on the decision of the **Hon'ble Supreme Court in the case of Union of India vs. Rajeev Bansal [2024] 167 taxmann.com 70 (SC) and Deepak Steel and Power Ltd. vs. CBDT [2025] 174 taxmann.com 144 (SC)**, wherein it was held that the reopening for the assessment year 2015-16 after 01.04.2021 was invalid. A similar view has been taken by the jurisdictional **Bombay High Court** in the recent decision of **Mitra Biswas vs. ITO [2026] 183 taxmann.com 161 (Bom)**, wherein it has been held that notices issued for reopening under Section 148 of the Act after 01.04.2021 in respect of AY 2015-16 are liable to be dropped, as they would not fall within the period prescribed under TOLA.

6. Therefore, relying upon the decisions of the **Hon'ble Supreme Court and the jurisdictional High Court** as mentioned above, we are of the view that the notice under Section 148 of the Act dated 29.06.2022 for the year under consideration, as well as the consequent reassessment order passed on 27.05.2023 on the basis of the impugned notice, are hereby

quashed, as the notice under Section 148 of the Act is barred by limitation.

7. Since we have quashed the proceedings while adjudicating Ground No. 1, the other grounds become academic in nature and, therefore, do not require any adjudication.

8. In the result, the appeal filed by the assessee stands party allowed.

Order pronounced in the open court on 01.04.2026

SD/-

(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

SD/-

(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 01/04/2026

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई/ DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/BY ORDER,

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai