

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
MS. PADMAVATHY S, ACCOUNTANT MEMBER**

**ITA No.4028/Mum/2024
(Assessment Year :2014-15)
ITA No. 4026/Mum/2024
(Assessment Year: 2015-16)**

ACIT 27(1), Mumbai	Vs.	Bhavesh Ranchhodas Madiyar R. No.101 & 102, Anna Bhuvan, 87, C.D.R. Marg, Dana Bunder-400 009
PAN/GIR No.AAQPM6025M		
(Appellant)	..	(Respondent)

**ITA No. 4157/Mum/2024
(Assessment Year: 2014-15)**

ACIT 27(1), Mumbai	Vs.	Sanjaykumar Shankarlal Export Pvt. Ltd., A-801/802, Groma House Sector-19, Opp. APMC Market II, Vashi, Navi Mumbai – 400 703
PAN/GIR No.AABCS4158H		
(Appellant)	..	(Respondent)

**CO No.211/Mum/2024
(Arising out of ITA No. 4026/Mum/2024)
(Assessment Year: 2015-16)**

&

**CO No.210/Mum/2024
(Arising out of ITA No. 4028/Mum/2024
(Assessment Year: 2014-15)**

Assessee by	Shri Biren Shah (Virtually appeared)
Revenue by	Shri Leyaqtat Ali Aafaqui, Sr.AR
Date of Hearing	14/10/2025
Date of Pronouncement	31/10/2025

आदेश / O R D E R**PER BENCH:**

These appeals by the Revenue and the cross-objections by the assessee emanate from separate but identical orders dated 18 June 2024, passed by the National Faceless Appeal Centre (NFAC), Delhi, concerning reassessments framed under section 147 of the Income-tax Act, 1961, for the assessment years 2014–15 and 2015–16 respectively.

2. In both years, the grievance of the Revenue revolves around the relief granted by the learned CIT(A), who restricted the addition made under section 69C on account of alleged bogus purchases to 2% of the said purchases. Specifically, in A.Y. 2014–15, the Assessing Officer had made an addition of ₹3,86,78,504/- treating the entire purchases from M/s Gayatri Maa Enterprises as unexplained expenditure; the CIT(A), however, restricted the same to ₹7,73,571/-, representing 2% thereof. Similarly, for A.Y. 2015–16, the Assessing Officer had made an addition of ₹1,98,98,080/- in respect of purchases from M/s Riddhi Siddhi Impex, whereas the learned CIT(A) sustained only ₹3,97,960/-, being 2% of the purchases.

3. The brief factual matrix, in so far as it is germane to the issue, is that the assessee is an individual engaged in the business of trading in grains and pulses under the proprietorship concern M/s Jupiter Agro. For A.Y. 2014–15, the assessee originally filed his return of income on 17 November 2014 declaring a total income of ₹56,41,856/-,

which was subsequently revised on 30 April 2015 declaring ₹77,74,701/-. For A.Y. 2015-16, return was filed on 28 September 2015 declaring ₹2,30,67,080/-.

4. The reassessment proceedings were triggered pursuant to information received from the Investigation Wing, which was based on a survey action under section 133A conducted on 30 November 2018 at the premises of one Shri Ashok Gupta, proprietor of M/s Gayatri Maa Enterprises. In his statement recorded during the survey, Shri Ashok Gupta admitted that his concern was engaged merely in providing accommodation entries of sales and purchases to various parties for a commission of ₹1 to ₹1.5 per quintal, and that no actual trading activity was carried out. Since the assessee was found to have obtained purchase entries aggregating to ₹3,86,78,504/- from the said concern during A.Y. 2014-15, notice under section 148 was issued on 31 July 2022 after the procedure under section 148A(d) was completed. Similarly, for A.Y. 2015-16, the Assessing Officer noted that the assessee had procured purchases worth ₹1,98,98,080/- from M/s Riddhi Siddhi Impex, also controlled by the same group, and hence, notice under section 148 was issued on the same date.

5. During the reassessment proceedings, the assessee not only challenged the reopening under section 148 but also filed a detailed reply on merits supported by the following documentary evidence:

- Brief note explaining the nature of business activities;

- Copy of ITR-V for the return filed in response to notice under section 148;
- Computation of income and Form 26AS;
- Audited financial statements and tax audit report;
- Bank statements for the relevant period;
- Details of purchases and sales exceeding ₹1 crore;
- Ledger account of M/s Riddhi Siddhi Impex;
- Purchase bills and invoices from the said party;
and
- A comprehensive breakup of sales and purchases, including names of counterparties for both F.Ys. 2013–14 and 2014–15.

6. The Assessing Officer, however, brushed aside the assessee's documentary submissions and placed sole reliance on the information from the Investigation Wing and the statement of Shri Ashok Gupta. He alleged that the assessee failed to produce transportation bills, weighment slips, delivery challans, confirmations from suppliers, or any correspondence establishing genuineness of transactions. Consequently, the entire purchases from the impugned parties were treated as bogus and added under section 69C as unexplained expenditure.

7. In appeal, the learned CIT(A) first examined the challenge to reopening and, by a reasoned order, upheld the validity of reassessment, observing that due process under section 148A(b) had been duly followed. On the merits, however, the CIT(A) took note of judicial precedents particularly the decision of the Hon'ble Bombay High Court in *PCIT v. Ram Builders* [2023] 146 taxmann.com 447 (Bom) holding that where the assessee fails to produce suppliers, only the profit element embedded in the purchases can be brought to tax, and not the entire transaction value.

8. The learned CIT(A) then analysed the assessee's profitability trend over three consecutive years, observing as follows:

Assessment Year	Profit Margin (%)
2014-15	0.19
2015-16	0.51
2016-17	0.38

8.1. Relying upon the judgment of the Hon'ble Gujarat High Court in PCIT v. Kandla Steel (P) Ltd. (2023) 149 taxmann.com, he held that adoption of a gross profit rate of 2% on the disputed purchases would meet the ends of justice, and accordingly restricted the disallowance to that extent.

9. Before us, the learned counsel for the assessee reiterated the challenge to reopening, submitting that notices under section 148A(b) were issued on 24 May 2022, followed by orders under section 148A(d) dated 31 July 2022 and consequential notices under section 148 of even date for both years. It was contended that in respect of A.Y. 2015-16, the notice is clearly barred by limitation under the new law as explained by the Hon'ble Supreme Court in Union of India v. Rajeev Bansal [(2024) 469 ITR 46 (SC)], since the six-year period under the old regime had already expired on 31 March 2022 and the new extended ten-year window could not be applied retrospectively. Learned counsel further submitted that Revenue itself had conceded before the Hon'ble Supreme Court that for A.Y. 2015-16, all notices issued on or after 1

April 2021 were liable to be dropped, as they were not saved by TOLA. He relied on a catena of subsequent High Court rulings following the Supreme Court pronouncement.

10. In response, the learned Senior Departmental Representative strongly defended the action of the Assessing Officer through a written submission, contending that the assessee's reliance on the first proviso to section 149(1) and on *Rajeev Bansal* was misplaced. According to the Revenue, the reassessment had been validly initiated under the amended regime introduced by the Finance Act, 2021, read with the Supreme Court's directions in *Union of India v. Ashish Agarwal* (Civil Appeals Nos. 3005–3017 of 2022), and thus fully compliant with law.

The Revenue respectfully submits that the assessee's reliance on the first proviso to Section 149(1) and the judgment of the Hon'ble Allahabad High Court in Rajeev Bansal is misconceived and factually misplaced. The reassessment proceedings in the present case have been validly Initiated under the amended framework introduced by the Finance Act, 2021, read with the directions of the Hon'ble Supreme Court in Union of India v. Ashish Agarwal (Civil Appeal Nos. 3005-3017 of 2022), and therefore are fully compliant with the applicable law as on the date of issue

****(Hon'ble Allahabad High Court was wrongly mentioned. The judgment is of Hon'ble Supreme Court)***

In the present case, the Assessing Officer (AO) was in possession of tangible material emanating from a survey conducted on 30.11.2018 under Section 133A in the case of M/s Ridhi Sidhi Impex, wherein Shri Ashok Gupta categorically admitted to providing accommodation entries to various entities, including the assessee. The survey findings and corroborative documentary trail clearly established that the

assessee had routed bogus purchase transactions leading to the suppression of taxable income exceeding 50 lakh. Such escapement, being represented in the form of entries in books and bank accounts, squarely falls within the ambit of "asset" and "entries in books of account" as envisaged under Section 149(1)(b). Hence, the AO was legally empowered to issue a notice for reassessment within ten years from the end of the relevant assessment year.

The contention that the first proviso to Section 149(1) bars reassessment in the present case is untenable. The said proviso applies only where the limitation period under the pre-amendment law had expired, and there was no tangible material or escaped income represented in the form of an asset exceeding 50 lakh. However, in the instant case, the material gathered during survey proceedings and the subsequent analysis by the AO constitute fresh, credible information leading to a valid "reason to believe that income chargeable to tax had escaped assessment. The notice dated 31.07.2022 was issued after due sanction under Section 151 and in compliance with Section 148A(b) procedure, thereby fulfilling all statutory requirements.

Further, the decision in Rajeev Bansal is clearly distinguishable on facts. That judgment dealt with notices issued between 1 April 2021 and 30 June 2021 under the old unamended provisions of Section 148, which were later deemed invalid due to the transition to the new regime. In contrast, the present notice has been issued under the new Section 148A, after following the due process introduced by the Finance Act, 2021, and hence is not affected by the ratio of Rajeev Bansal. The law laid down in Ashish Agarwal (SC) specifically validates the continuity of such reassessment actions undertaken pursuant to new Section 148A, provided that the AO had valid information and obtained requisite approvals, both of which are satisfied here.

Therefore, the Revenue submits that the reopening of assessment for A.Y. 2015-16 is well within the extended ten-year limit under Section 149(1)(b), supported by cogent survey material evidencing escaped income exceeding 50 lakh, and duly compliant with all procedural safeguards. The assessee's interpretation of the first proviso as an absolute bar is legally unsound and contrary to the legislative intent of empowering

the Department to reopen substantial cases of tax evasion represented by assets or book entries. Accordingly, the assessee's challenge to the validity of reassessment is liable to be rejected, and the action of the Assessing Officer deserves to be upheld as legally valid and within limitation.”

11. After considering the rival submissions, we find merit in the contention of the learned counsel for the assessee. It is an admitted position that the notices under section 148 were issued on 31 July 2022 for both years. For A.Y. 2015–16, the limitation period under the unamended section 149(1)(b) expired on 31 March 2022. As held by the Hon’ble Supreme Court in *Rajeev Bansal* (supra), all notices issued on or after 1 April 2021 for A.Y. 2015–16 stand barred by limitation. Indeed, the Revenue itself had conceded before the Supreme Court that such notices could not be sustained. Following this authoritative pronouncement, several High Courts Delhi, Punjab & Haryana, Rajasthan, Karnataka, and Gujarat have quashed identical reassessment notices.

1) Bhagwan Sahai Sharma VS. Deputy Commissioner of Income Tax reported in [2025] 174 taxmann.com 14 (Delhi)

2) Lalit Gulati VS. Assistant Commissioner of Income Tax reported in [2025] 174 taxmann.com 273 (Delhi);

3) The Punjab and Haryana High Court in case of Jay Jay Agro Industries vs. Income Tax Officer, Ward-I, Karnal & Anr in CWP 7405/2025

4) Rajasthan High Court in case of Shreyansh Mehta S/o Shri Shanti Lal Mehta, Income Tax Officer, Udaipur in Civil Writ Petition No. 3299/2023. vs.

5) Karnataka High Court in case of Shri Siddaiah Gurappaji vs. The Assistant Commissioner of Income Tax and ors in Writ Petition No. 20292 of 2023.

6) *Hon'ble Gujarat High Court also in case of Mayurkumar Babubhai Patel v. Assistant Commissioner of Income Tax, Circle 3(1)(1), Ahmedabad and another (order dated 17.06.2025 rendered in Special Civil Application No.3154 of 2022 and allied matters.*

7) *M/s. MI Alloys through ITA No. partner Shri Ravi Anil Panchal vs. The Union of India & Ors. in Civil Application No.8362 of 2025.*

12. The statutory framework of section 149 as substituted by the Finance Act, 2021, and the judicial pronouncements culminating in *Rajeev Bansal (SC)* and subsequently *ACIT v. Nehal Ashit Shah (SLP (C) Diary No. 57209/2024)*, bring into sharp focus the core issue whether a notice issued under section 148 on 31 July 2022 for A.Y. 2015–16 can survive the bar of limitation.

“149(1) No notice under section 148 shall be issued for the relevant assessment year, —

(a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);

(b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, expenditure or entries in the books, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more:

Provided that no notice under clause (b) shall be issued at any time for the relevant assessment year beginning on or before the 1st day of April, 2021, if such notice could not have been issued at that time on account of being beyond the time-limit specified under the provisions of clause (b) of sub-section (1) of this section as they stood immediately before the commencement of the Finance Act, 2021.”

13. The proviso, though succinct in form, encapsulates a vital legislative intent to ensure that the extended ten-year period operates only prospectively and does not retrospectively revive assessments that had already attained finality under the earlier six-year limitation. The Parliament thus drew a clear demarcation line safeguarding the vested right of closure that had accrued to assessees for time-barred years.

14. The Hon'ble Supreme Court in *Rajeev Bansal* undertook a meticulous analysis of the amended section 149 vis-à-vis the TOLA extensions, and in paragraph 19(f) of its judgment recorded the categorical concession by the Revenue that for A.Y. 2015–16, all notices issued on or after 1 April 2021 would have to be dropped. Their Lordships clarified that notices under the new regime could be issued only for A.Y. 2021–22 onwards and that the first proviso barred resurrection of any time-barred assessments.

15. The doctrinal essence distilled from *Rajeev Bansal* may be summarised thus: (i) limitation under the old law governs all years up to A.Y. 2021–22; (ii) the first proviso to section 149(1) acts as a statutory embargo against reopening of time-barred cases; (iii) TOLA merely paused the running of time but did not expand jurisdiction; and (iv) the ten-year limit under the amended law applies prospectively.

16. These principles, which emerge as the inexorable outcome of the Hon'ble Supreme Court's pronouncement, have found uniform resonance across judicial fora throughout

the country. The Hon'ble Delhi High Court in *Pratishtha Garg v. ACIT* (2025 171 taxmann.com 264) and *IBIBO Group Pvt. Ltd. v. ACIT* (W.P.(C) No. 17639/2022, judgment dated 13 December 2024) has reiterated that notices issued for A.Y. 2015-16 after 1 April 2021 are legally non-est, having been conceded as invalid by the Revenue itself before the Hon'ble Supreme Court. Once such concession is recorded in a binding pronouncement of the apex court, it operates as estoppel against the Department.

16.1. The coordinate benches of this Tribunal have also consistently applied this ratio. In *ACIT v. Nilesh Haresh Parwani* (ITA No. 266 & CO No. 46/Mum/2025), *ACIT v. Manish Financials* (ITA Nos. 5050 & 5055/Mum/2024), and *ITO v. Pushpak Realities Pvt. Ltd.* (ITA No. 4812/Mum/2024), identical notices for A.Y. 2015-16 issued after 1 April 2021 were quashed on the same footing. In each of these, it was held that once the six-year limitation under the unamended law lapsed on 31 March 2022, the Assessing Officer's jurisdiction was irretrievably extinguished and could not be resurrected by the subsequent amendment.

17. The Hon'ble Supreme Court in *ACIT v. Nehal Ashit Shah* (SLP (C) Diary No. 57209/2024) has now sealed the matter beyond peradventure by affirming that very interpretation, holding that the concession recorded in *Rajeev Bansal* constitutes the determinative position of law. Consequently, any attempt by the Department to issue notices for A.Y. 2015-16 post 1 April 2021 would be plainly ultra vires. The judicial clarity is now crystalline the first proviso to Section 149(1) is

not merely procedural but a substantive restraint, insulating past assessment years from revival once their limitation has expired.

18. Applying these binding principles to the present case, the notice under Section 148 was issued on 30 July 2022 for A.Y. 2015-16, i.e., more than seven years after the end of the relevant previous year (31 March 2015). Under the pre-amendment law, the permissible window for reopening six years from the end of the relevant assessment year closed on 31 March 2022. The moment that date passed, the Assessing Officer's jurisdiction was extinguished. The first proviso to Section 149(1), couched in mandatory terms, forbids revival of such lapsed power. Once the statutory time-bar sets in, no subsequent legislative change can re-infuse life into a proceeding that has already met its temporal demise. The impugned notice, therefore, stands vitiated ab initio.

19. The contention advanced by the learned DR that the escapement emanates from "entries in books" or "assets" exceeding ₹ 50 lakh, and therefore falls within clause (b) of Section 149(1), betrays a misapprehension of the proviso's legislative architecture. The very first proviso erects a temporal firewall, insulating all assessment years up to A.Y. 2021-22 that had already become time-barred under the erstwhile six-year regime. The amplitude of the expression "assets or entries in books" cannot pierce this constitutional barrier of limitation. Accepting the Department's view would render the proviso otiose a construction the courts are enjoined to eschew.

20. The Supreme Court in *Rajeev Bansal* has categorically held that the ten-year period introduced by the Finance Act, 2021 is prospective, applicable only to assessment years commencing on or after 1 April 2021. The legislative design was consciously crafted to balance administrative efficiency with taxpayers' right to finality. Any retrospective enlargement of limitation would offend the settled doctrine that procedural amendments affecting substantive rights cannot operate retrospectively unless expressly stated. In other words, the new ten-year window cannot be used as a judicial time-machine to reopen assessments long concluded under the old six-year scheme.

21. Having held the reassessment void ab initio for A.Y. 2015-16, we now turn to the merits as canvassed in A.Y. 2014-15. On a careful and comprehensive appraisal of the material placed on record, we find that the assessee has duly substantiated the impugned purchases through cogent and contemporaneous documentary evidence. The bank statements filed by the assessee, which have been specifically noted in the assessment order itself, clearly demonstrate that payments for the purchases in question were made through regular banking channels. The source of such expenditure, therefore, stands fully explained and traceable to the books of account forming part of the audited financial statements.

21.1. Further, the assessee furnished before the Assessing Officer the complete details of corresponding sales arising from the same purchases. These sales are duly reflected in the trading account forming part of the audited books of

account, and notably, the Assessing Officer has accepted these sales in entirety. The quantitative tally of goods purchased and sold has not been disputed, nor has the trading account been rejected. Thus, the entire commercial chain of transaction purchase, accounting, and sale stands established without any factual infirmity or evidentiary lacuna.

21.2. It is now a well-settled proposition, affirmed by a consistent line of judicial precedents, that when purchases are duly recorded in the regular books of account, payments are effected through verifiable banking channels, and the resultant sales have been accepted as genuine, there remains no occasion for invoking Section 69C of the Act on the ground of “unexplained expenditure.” The said provision is attracted only where an expenditure is found to have been incurred and the assessee either offers no explanation about its source or the explanation offered is, in the opinion of the Assessing Officer, unsatisfactory. In the present case, not only has the assessee furnished a satisfactory explanation, but the same stands fortified by unimpeachable evidence in the form of bank transactions and audited accounts. The very substratum of the allegation of unexplained expenditure, therefore, collapses.

21.3. The Assessing Officer, while dubbing the suppliers as non-genuine, has not pointed out any discrepancy in the purchase invoices nor demonstrated that the corresponding sales were fictitious. The trading account has not been disturbed; there is no finding of inflation of purchases or

suppression of sales. When the book results stand accepted and quantitative details are reconciled, it is wholly impermissible to treat the entire purchase value as unexplained merely because the suppliers could not be produced or were found to be accommodation entry providers. As consistently held by the Hon'ble jurisdictional High Court, in such circumstances, what can be taxed is only the profit element embedded in such purchases and not the entire transaction value.

21.4. The learned CIT(A), adopting a judicious and balanced approach, analysed the gross-profit ratios of the assessee across contiguous years 0.19 per cent for A.Y. 2014-15, 0.51 per cent for A.Y. 2015-16, and 0.38 per cent for A.Y. 2016-17 and, considering the totality of circumstances, applied a G.P. rate of 2 per cent on the disputed purchases. This estimation, being significantly higher than the actual business margin disclosed, adequately neutralises any possible inflation in purchase cost while protecting the legitimate interests of Revenue.

21.5. In our considered view, this approach of the learned CIT(A) is unimpeachable, being in consonance with settled judicial principles and fair estimation. Accordingly, we uphold his conclusion on merits and dismiss the Revenue's appeal on this issue.

22. We may add that the view taken by the learned CIT(A) finds substantial reinforcement from the judicial

pronouncements of the Hon'ble Gujarat High Court in CIT v. Simit P. Sheth [(2013) 356 ITR 451 (Guj)] and the Hon'ble Bombay High Court in PCIT v. Ram Builders [(2023) 146 taxmann.com 447 (Bom)], wherein it was unequivocally held that when the sales corresponding to the purchases are accepted, the entire purchases cannot be disallowed. Only the profit component embedded therein can be brought to tax, as it would be contrary to commercial logic to assume that the assessee could have affected sales without incurring any corresponding purchases.

22.1. The principle underlying these decisions is grounded in commercial reality where trading results have been accepted, a disallowance of the entire purchase value would distort the computation of real income. The estimation of profit at 2 per cent by the CIT(A), therefore, achieves a judicious equilibrium between suspicion and proof, ensuring a reasonable addition without doing violence to the accepted trading results.

23. Turning now to the cross-objections filed by the assessee, we note that, in so far as A.Y. 2015-16 is concerned, the same is intrinsically connected with the validity of the reassessment proceedings under Section 148. Having already held that the notice issued for this year is barred by limitation under Section 149 read with its first proviso and that the entire reassessment stands void ab initio, the assessee's cross-objection on this jurisdictional ground necessarily succeeds. We accordingly allow the cross-objection for A.Y. 2015-16.

24. With regard to A.Y. 2014-15, the learned counsel for the assessee, with commendable fairness, submitted that the cross-objection is only of an academic nature, since the appeal on merits has already been decided in the assessee's favour by upholding the order of the CIT(A). We, therefore, treat the cross-objection for A.Y. 2014-15 as infructuous and dismiss it accordingly.

25. To sum up, the reassessment proceedings for A.Y. 2015-16 are quashed as being barred by limitation, and the order of the CIT(A) for A.Y. 2014-15, sustaining the addition at 2 per cent of the disputed purchases, is affirmed as fair and reasonable. Consequently, the appeals filed by the Revenue stand dismissed; the cross-objection of the assessee for A.Y. 2015-16 is allowed; and the cross-objection for A.Y. 2014-15 is dismissed as infructuous.

Order pronounced on 31st October, 2025.

Sd/-
(PADMAVATHY S)
ACCOUNTANT MEMBER

Mumbai; Dated 31/10/2025
KARUNA, sr.ps

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Copy of the Order forwarded to :

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

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BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai