

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No. 1967/Bang/2025
Assessment Year : 2015-16

Shri Mohammed Yousuf, Flat No. P-02, No. 46, SNS Regency, 1 st Main, R.T. Nagar, Bengaluru – 560 032. PAN: AANPY6838K	Vs.	The Income Tax Officer, Ward – 6(3)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri Nagaraj K.H, CA
Revenue by	:	Shri Subramanian .S, JCIT-DR

Date of Hearing	:	22-01-2026
Date of Pronouncement	:	15-04-2026

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 18/07/2025 in respect of the A.Y. 2015-16 and raised the following grounds:

“Grounds of Appeal No. 01 : The learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre has erred on law and facts by confirming the assessment order passed u/s. 147 r.w.s. 144B of the Income Tax Act, 1961 dated 26/03/2024 without considering that the assessment order is bad in law and illegal on following issues : A. The notice issued u/s. 148 of the Income Tax Act, 1961 on 04/04/2022 by the Income Tax Officer, Ward-6(3)(1), Bengaluru is bad in law for want of requisite jurisdiction, B. The Notice u/s. 148 of the Income Tax Act,

1961 issued on 04/04/2022 is barred by limitation of time and C. The prescribed procedure laid down u/s. 148A of the Income Tax Act, 1961 has not been followed. Thus, it is prayed to set-aside the assessment order being the same as void-ab-initio.

Grounds of Appeal No. 02 : *The learned Commissioner of Income Tax (Appeals) has erred on law and facts by confirming the additions of Rs. 46,20,000/- made in the assessment order passed u/s. 147 r.w.s. 144B of the Income Tax Act, 1961 dated 26/03/2024 and the same is liable to deleted.*

Grounds of Appeal No. 03 : *The learned Commissioner of Income Tax (Appeals) has erred on law and facts by confirming the additions of Rs. 12,33,000/- made u/s. 56(2)(vii) of the Income Tax Act, 1961 in the assessment order passed u/s. 147 r.w.s. 144B of the Income Tax Act, 1961 dated 26/03/2024 and the same is liable to be deleted.*

Grounds of Appeal No. 04 : *The appellant seeks liberty to modify/alter/amend or withdraw any grounds of appeal or raise any grounds of appeal during appeal proceedings.”*

2. The brief facts of the case are that the assessee is an individual and not filed his return of income. Thereafter the case of the assessee was taken up for reopening and to that effect, notice u/s. 148A(b) was issued and subsequently, the order u/s. 148A(d) was issued. The AO had issued a notice u/s. 148. The assessee filed his return of income in response to the notice issued u/s. 148. The AO got information that the assessee had not disclosed the purchases of immovable property as well as the commission received by him. The assessee after filing his return of income, had not responded to any of the notices including the notice sent through the speed post. Since the assessee had not responded to any of the notices, the AO had sent a notice u/s. 133(6) to the Sub-Registrar, Ganga Nagar, Bengaluru and the Sub-Registrar also furnished the sale deed copy from which the AO had confirmed that the assessee had purchased an immovable property for which the source was not explained by the assessee. The AO further observed that in the sale deed, the consideration was shown as Rs. 46,20,000/- whereas the stamp value of the property was about

Rs. 58,53,000/-. Therefore the AO had treated the said investment made by the assessee as unexplained investment u/s. 69 of the Act. The AO had also treated the difference value as income from other sources and made an addition to that effect. The assessee challenged the said order before the Ld.CIT(A). Unfortunately, the assessee had not responded to the notices issued by the Ld.CIT(A) and therefore the Ld.CIT(A) had decided the appeal based on the records available with him and finally confirmed the addition made by the AO.

3. As against the said order, the assessee is in appeal before this Tribunal.

4. At the time of hearing, the Ld.AR submitted that the notice issued u/s. 148A(b) is illegal and therefore the consequential proceedings including the assessment are bad in law. The Ld.AR also submitted that the notice issued u/s. 148 on 04/04/2022 is also barred by limitation and therefore the other proceedings are bad in law.

5. The Ld.AR further submitted that the assessment order made by the AO by treating the assessee as the purchaser of the property on 20/11/2014 and on that basis, the addition made on the assessee u/s. 69 of the Act is not correct since the AO had obtained the sale deed from the Sub-Registrar, Ganga Nagar, Bengaluru which shows that the assessee along with his wife had purchased the said property and therefore the entire addition made on the assessee is not correct. The Ld.AR also submitted that the difference between the stamp value and the consideration mentioned in the sale deed could not be taken as income of the assessee when the property was jointly purchased by the assessee as well as his wife. The Ld.AR therefore submitted that both on legal grounds as well as on merits, the assessment could not be sustained and prayed to allow the appeal. The Ld.AR submitted that even though the assessee had not appeared before the Ld.CIT(A), the legal issues as well as the issues on merits are very much visible and therefore prayed to decide the appeal on

merits as well as on the legal issues. The Ld.AR also filed a paper book enclosing the various documents and also relied on the judgement of the Hon'ble Bombay High Court. The Ld.AR also filed the written submissions in support of the grounds raised by him. The Ld.AR also filed a copy of the Hon'ble Delhi Tribunal order in the case of Dharampal Satyapal Ltd. vs. ACIT in ITA No. 5519/Del/2024 dated 15/10/2025 in support of their legal submissions.

6. The Ld.DR submitted that the assessee was a non-filer and when there is no proceedings u/s. 147, the income might have been escaped from assessment and therefore prayed that the appeal of the assessee may be dismissed. The Ld.DR also submitted that the assessee had not appeared before the Ld.CIT(A) and therefore no leniency can be shown to him and prayed to dismiss the appeal. The Ld.DR also filed the written submissions dealing with the 148A(b) notice, 148A(d) notice and the notice issued u/s. 148 and also enclosed the copies of the said notices and submitted that the notices are in accordance with the provisions and therefore prayed to reject the legal submissions made by the assessee.

7. We have heard the arguments of both sides and perused the materials available on record.

8. In this appeal, the assessee had raised two legal grounds, one relates to the legality of the notice issued u/s. 148A(b) of the Act and the another relates to the limitation for issuing the notice u/s. 148 of the Act. Since the legal issues are raised by the assessee, we are proceeding to decide the said legal issues and thereafter, if necessary, we will adjudicate the grounds on merits also.

9. In the paper book, the assessee had enclosed the copy of the notice issued u/s. 148A(b) of the Act which is dated 20/03/2022 in which the AO had granted time for filing the response with supporting documents on or before 25/03/2022. The main grievance of the assessee is that the notice

granted a 5 days time to file the response to the said notice issued u/s. 148A(b) of the Act. We have also perused section 148A(b) of the Act in which it was specified that the notice should give not less than 7 days time for furnishing the response by the assessee. The maximum time limit has been prescribed at 30 days. The section also says that the time limit has to be calculated from the date on which the notice u/s. 148A(b) was issued. It also specifies that if any time has been extended by the AO based on an application made by the assessee, then the outer time limit could be extended upto that period. In the present case, the AO had issued the notice for furnishing the response by giving 5 days period and therefore the said notice is against the provisions of the Act. When we consider the submissions of the Ld.DR that the assessee had sought for an extension of time for furnishing the submissions on 28/03/2022, the plea of non-granting the 7 days time should not be raised by the assessee before his forum, we are not accepting the said submission made by the Ld.DR for the reason that the AO had not considered the request made by the assessee on 28/03/2022 and therefore the said submission does not holds good. Further, the non-raising of the said dispute before the authorities would not be a reason to term the illegal proceedings as a legal proceeding. Therefore, the submissions made by the Ld.DR does not holds good on the facts of the present case and we therefore accept the ground raised by the assessee that the notice issued u/s. 148A(b) of the Act is bad in law. Our view was also supported by the judgment of the Hon'ble Bombay High Court reported in (2023) 153 taxmann.com 70 (Bombay) in the case of Mukesh J. Ruparel vs. ITO wherein it was held that the mandatory requirement of giving minimum 7 days of time to assessee to reply to such notice u/s. 148A(b) was not fulfilled and therefore the impugned notice and the further order passed u/s. 148A(d) along with the notice issued u/s. 148 were to be quashed and set aside.

10. The another legal ground raised by the assessee is that the limitation for issuing notice u/s. 148 was barred as per amended provisions, from section 147 to 151 of the Act. We have considered the said provisions and

the time limit for issuing the notice u/s. 148 in respect of the A.Y. 2015-16 was expired on 31/03/2022 as held by the Hon'ble Supreme Court in the case of Union of India vs. Rajeev Bansal reported in 469 ITR 46 (SC). In the present facts, the period of six years for initiating proceedings u/s. 148 expired on 31/03/2022 whereas the 148 notice issued by the AO is dated 04/04/2022 and therefore the said notice is clearly barred by limitation. Further, in the written submissions, the assessee had relied on the sale deed dated 20/11/2014 which was relied on by the AO for making the addition u/s. 69 of the Act. Even though the assessee had not submitted the details before the AO, the AO had issued a notice u/s. 133(6) of the Act to the Sub-Registrar, Ganga Nagar, Bengaluru and got the copy of the sale deed dated 20/11/2014. When the sale deed was before the AO, the AO without considering the said sale deed had presumed that the property was purchased by the assessee and on that basis, the addition was made in the hands of the assessee. When we have perused the sale deed dated 20/11/2014, it was clearly mentioned that the assessee as well as his wife had purchased the property and therefore both the husband and wife are having an equal rights over the said property. If the value of Rs. 46,20,000/- has been divided equally between the assessee and his wife, the assessee's investment in the said property is about Rs. 23,10,000/- and the difference between the Sub-Registrar value and the sale deed value of Rs. 12,33,000/- has been added to the income of the assessee, a total addition could be about Rs. 29,26,500/-. Therefore, as per section 149(1), the notice u/s. 148 could not be issued on 04/04/2022 i.e. after a period of six years. Therefore based on the provisions, we concluded that the notice issued u/s. 148A(b) is not in accordance with the provisions of the Act and the notice issued u/s. 148 is beyond the period of limitation. In such circumstances, the consequential proceedings including the assessment made by the AO does not stand in the eye of law.

11. We have also perused the Hon'ble Delhi Tribunal order cited by the assessee in which the Hon'ble Tribunal had decided the limitation issue based on the judgment of the Hon'ble Supreme Court in the case of Union of

India vs. Rajeev Bansal cited supra. The relevant finding of the Tribunal is extracted as below:

“5. The first contention of ld. Counsel is that Notice u/s 148 of the Act dated 30/07/2022 is barred by limitation in terms of first proviso to section 149(1) as six years from the end of AY 2015-16 expired on 31/03/2022. Ld. Counsel submitted that the notice u/s 148 of the Act dated 30/07/2022 issued under the amended regime is barred by limitation in terms of first proviso to section 149(1) as six years from the end of the assessment year i.e. AY 2015-16 had elapsed on 31/03/2022 and as such the notice u/s 148 dated 30/07/2022 has been issued after expiry of limitation period. It is submitted that the first proviso of section 149(1) of the Act specifically provides that no notice u/s 148 could be issued in relation to assessment years prior to 01/04/2021 wherein six years have elapsed. The relevant proviso is reproduced hereunder for ready reference:

Provided that no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if a notice under section 148 or section 153A or section 153C 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 or section 153A or section 153C, as the case may be], as they stood immediately before the commencement of the Finance Act, 2021:

5.1 In view of the above, it is patent that the notice u/s 148 issued on 30/07/2022 is barred by limitation as the time limit of six years expired on 31/03/2022. It is pertinent to observe that the earlier notice u/s 148 dated 30/06/2021 issued under the old regime within time extended under TOLA was invalid as the extension of time limit under TOLA was inapplicable to AY 201516 and as such the present proceedings cannot be treated as extension of the earlier notice dated 30/06/2021. The legal position to this effect is settled by the decision of Hon'ble Apex Court in the case of UOI v. Rajeev Bansal [2024] 469 ITR 46 (SC) wherein the revenue conceded the fact that TOLA was not applicable to AY 2015-16 and as such the proceedings u/s 148 under new regime cannot be initiated after 31/03/2022.....”

12. Even on merits, as already discussed in the earlier paragraphs, the AO had made the entire addition in the name of the assessee whereas the

documents exhibits that the addition could be made on the assessee as well as on his wife equally. When the AO had relied on the sale deed obtained from the Sub-Registrar, Ganga Nagar, Bengaluru, he could have made the assessment on both the husband and his wife equally whereas the AO had miserably failed to make any such assessment. Therefore, the entire addition made in the name of the assessee could not be sustained. Further, we have also perused the subsequent sale deed made by the assessee and his wife and the details of the consideration received by them which supports the argument that the property was owned jointly by the husband and wife. In such circumstances, the assessment made u/s. 147 of the Act could not be sustained both on legal grounds as well as on the grounds on merits.

13. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 15th April, 2026.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 15th April, 2026.
/MS /

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| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore