IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2396/PUN/2026
निर्धारण वर्ष / Assessment Year : 2017-18

Vinod Vasant Chavan, 659, Budhwar Peth, Bhau Rangari Lane, Near Sakal Press, Pune- 411002. PAN : AAUPC5390F	Vs.	ITO, Ward-6(3), Pune.
Appellant		Respondent

Assessee by	:	Shri Sharad Vaze
Revenue by	:	Shri Vaibhav Madhavrao Dhere (Virtual)
Date of hearing	:	23.07.2026
Date of pronouncement	:	12.10.2026

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 26.03.2026 passed by Ld. CIT(A)/NFAC for the assessment year 2017-18.

2. The appellant has raised the following grounds of appeal :-

> *"1. In the facts and circumstances of the case as well as in law, the assessment order passed by the Ld Assessing Officer is bad in law as no notice u/s 148A(b) was ever issued by him as mandated by the decision of Hon'ble Supreme Court in Ashish Agarwal before 04th June 2022.*

As such, the assessee could not give reply to the notice u/s 148A.

The order passed by AO u/s 148A(d), is therefore bad in law and as a consequence, notice u/s 148 is also bad in law.

2. *Without prejudice to Ground No 1 above, the learned AO National Faceless Assessment Centre, Delhi erred in law and on facts assuming jurisdiction under s. 147 instead of s. 153C of Income Tax Act, 1961 (the Act) considering the convictions and information relied upon for making additions of Rs.34,04,860/-. Appellant contends that, basis of addition in appellant's case is on account of information pertaining appellant collected in search and seizure action at third party and hence, the consequential proceedings pertaining to search and requisition ought to have been issued under s. 153C rather than 147 of the Act.*

3. *Without prejudice to Ground No 1 & 2 above, in the facts and circumstances of the case as well as in law, assessment order dt 09/05/2023 is bad in law as the assessment order was passed by Faceless Assessing Officer instead of by the Jurisdictional Assessing Officer (Central Circle) as the search related cases are assigned to Central Circle for assessment gets.*

4. *Without prejudice to Ground No 1 to 3 above, in the facts and circumstances of the case as well as in law, the lower authorities have held that the assessee failed to discharge the onus of proving the genuineness of the no business confirmation by the alleged supplier in response to notice issued under Section 133(6) of the Income Tax Act, 1961.*

5. *Without prejudice to Ground No 1 to 4 above, in the facts and circumstances of the case as well as in law, the Ld Assessing Officer has accepted the sales disclosed by the assessee. As such, if the presumption of the Ld AO is that the alleged cash purchases have been sold out of books, then the reasonable profit in cash purchase-sale be considered as income of the assessee.*

6. *In the facts and circumstances of the case as well as in law, sec 115BBE (60% tax rate) is not applicable to AY 2017-18.*

7. *The appellant craves leave to add, alter, omit or substitute any of the grounds at the time of hearing of the appeal.*

3. The appellant has also raised the following additional grounds of appeal :-

> *"Additional Ground No 1*
>
> *Without prejudice and in any event, the notice issued by the Ld Assessing officer is beyond the time allowed by the Hon'ble Supreme Court in the decision of Rajeev Bansal, therefore the notice being barred by limitation, the consequential assessment is bad in law."*
>
> *Additional Ground No 2*
>
> *Without prejudice and in any event, the notice issued u/s 148 of the Income Tax Act 1961 by the Ld Assessing officer is bad in law as the same is issued on 17/06/2021 i.e, after expiry of three years from the end of the assessment year 2017-18 without appreciating that notice under 148 can be issued beyond 3 years only if income escapement is above 50 lakhs. In the present case the impugned notice issued for AY. 2017-18 is for income escaped below Rs.50 lakhs, i.e. Rs.34,04,860/-, therefore, reopening is bad in law.*
>
> *The aforesaid additional grounds of appeal are without prejudice to the original grounds of appeal."*

4. Facts of the case, in brief, are that the assessee is an individual and has filed his return of income u/s 139 by declaring an income of Rs.4,38,320/-. A search and seizure action was carried at the business premises of Laxmi Remote India Private Limited Group on 21.08.2017 wherein it was found that the above entity was making sales in cash to various purchasers including the assessee and in this regard information was available on the insight portal that the assessee has made purchases of Rs.34,04,860/- and made the payment in cash to Laxmi Remote India Pvt. Ltd.

(LRIPL) which suggested that the income chargeable to tax to the above extent has escaped assessment, accordingly, notice u/s 148 of the IT Act was issued to the assessee on 17.06.2021. Subsequently, in the light of direction given by Hon'ble Supreme Court in the case of Aashis Agarwal vs. UOI, fresh notice u/s 148 of the IT Act was issued on 22.07.2022 after following the procedure u/s 148A(b)/(d) of the IT Act. Subsequently, notice u/s 143(2) and 142(1) respectively were issued to the assessee. After considering the reply and submissions of the assessee wherein it was contended by the assessee that he has not made any purchases in cash from LRIPL, the Assessing Officer vide order dated 09.05.2023 completed the assessment proceedings u/s 147 r.w.s. 144B of the IT Act by determining the income of the assessee at Rs.38,43,180/- as against the income of Rs.4,38,320/- returned by the assessee. The above assessed income includes addition of Rs.34,04,860/- being unexplained investments u/s 69C of the IT Act being cash purchases made from LRIPL.

5. Being aggrieved with the above assessment order, the assessee preferred an appeal before Ld. CIT(A)/NFAC. After

considering the reply and submissions of the assessee, Ld. CIT(A)/NFAC dismissed the appeal.

6. It is the above order against which the assessee is in appeal before this Tribunal.

7. We have heard Ld. Counsels from both the sides and perused the material available on record including the paper book furnished by the assessee. In this regard, we find that the assessee has raised additional grounds, which are legal in nature and goes to the root of the matter, therefore, we admit the same and proceed to adjudicate them first.

8. With regard to additional ground no.1, we find that the assessee by placing reliance on the judgement of Hon'ble Supreme Court passed in the case of Rajeev Bansal vs. UOI (2024) 469 ITR 46 (SC) has challenged the validity of reassessment notice dated 22.07.2022 issued u/s 148 of the IT Act being issued beyond the surviving time limit as prescribed in the above judgement.

9. In this regard, we find that the Assessing Officer issued notice u/s 148 of the IT Act on 17.06.2021. Subsequently, in view of the decision of the Hon'ble Supreme Court in the case of Union of India vs. Ashish Agarwal, reported in [2022] 444 ITR 1 (SC),

original notice issued u/s 148 on 17.06.2021 was deemed to be issued u/s 148A(b) of the IT Act. Vide show cause notice dated 31.05.2022, the information and material relied upon by the Revenue was provided to the assessee and two week's time was granted to the assessee to respond on or before 15.06.2022 in terms of the provisions of section 148A(b) of the IT Act.

10. Since no reply was filed by the assessee, an order u/s 148A(d) of the IT Act was passed on 22.07.2022 declaring that it is a fit case for issuance of notice u/s 148 of the IT Act. Thereafter, on 22.07.2022, notice u/s 148 of the IT Act was issued by the Faceless Assessing Officer (FAO). Now, through additional ground no.1 the assessee is challenging the above notice dated 22.07.2022 issued u/s 148 of the IT Act being issued beyond the surviving period as prescribed by Hon'ble Supreme Court of India in the case of Union of India vs. Rajeev Bansal (supra).

11. In support of his contentions, Ld. AR submitted that the Assessing Officer had time only till 28.06.2022 to issue fresh notice u/s 148 of the IT Act. Since Hon'ble Supreme Court in the case of Rejeev Bansal (supra) has categorically held that the surviving or balance time limit can be calculated by computing the

number of days between the date of issuance of the deemed notice and 30.06.2021. In this regard, Ld. AR furnished a chart which is reproduced as under :-

> *"Details w.r.t. surviving period calculation, post SC decision in case of Rajiv Bansal*

Particulars	*Date of notice*	*Number of days*	*Response due on*
Original Notice u/s 148	*17-06-2021*		
Surviving Time as per Rajeev Bansal case	*17.06.2021 minus 30.06.2021*	*13 days*	
Fresh Notice u/s 148A(b) After Ashis Agarwal Judgment	*31-05-2022*	*Allowing 2 Weeks time*	*15.06.2022*
Add surviving time as above	*13 days*	*15.06.2021 + 13 days*	*28.06.2022*
The date by which the Order u/s 148A(d) ought to be passed			*28-06-2022*
Order passed u/s 148A(d)			*22-07-2022*
Fresh notice issued u/s 148			*22-07-2022*

12. On the basis of above chart, Ld. AR submitted that the notice issued u/s 148 of the IT Act on 22.07.2022 for the assessment year 2017-18 is barred by limitation. Hence, it was submitted that the entire re-assessment proceedings culminating in the order dated 09.05.2023 passed u/s 147 r.w.s. 144B of the IT Act is *void ab initio*. Ld. AR placed reliance upon various judicial pronouncements, which are as under :-

(i) Rajiv Bansal, 469 ITR 46.

(ii) Kolte Patil ITA Nos.2023 and 2011/PUN/2024

(iii) Gulamahemad Hamidulla Khan, ITA No.166/PUN/2025.

(iv) Pushpak Realities Pvt. Ltd., ITA No.4812/Mum/2024.

(v) The Hisar Leading Bank Co-op Non-Agri., ITA No.5053/Del/2025.

(vi) Communist Party of India (Marxist) vs. ITD, CIR Exempt [2025] 174 taxmann.com 925 (Delhi).

(vii) Dy. CIT vs. Larsen & Toubro Ltd. [2025] 173 taxmann.com 582 (Mumbai – Trib.).

13. On the other hand, Ld. DR submitted that the first notice issued u/s 148 of the IT Act on 17.06.2021 was protected by Hon'ble Supreme Court vide its decision in Ashish Agarwal (supra), and therefore, all the proceedings subsequent thereto are pursuant to the directions of the Hon'ble Supreme Court. Thus, Ld. DR submitted that the notice dated 22.07.2022 issued u/s 148 of the IT Act cannot be challenged on the ground of limitation, as the same was issued pursuant to the guidelines laid down by Hon'ble Supreme Court in Ashish Agarwal (supra), which were not amended in the subsequent decision of Hon'ble Supreme Court in Rajeev Bansal (supra). Accordingly, Ld. DR requested to dismiss the appeal filed by the assessee.

14. We have considered the submissions of both the sides and perused the material available on record.

15. From the perusal of the findings of the Hon'ble Supreme Court in Rajeev Bansal (supra), it is evident that the Hon'ble Supreme Court directed that while computing the time limit for issuance of notice u/s 148, the time during which the show cause notice was stayed till the supply of relevant information or material by the Assessing Officer and further period of two weeks allowed to the assessee to respond to the show cause notice should be excluded. The surviving or balance time limit can be calculated by computing the number of days between the date of issuance of the deemed notice and 30.06.2021. Thus, Hon'ble Supreme Court held that the surviving time under the IT Act read with TOLA will be available to the Revenue to complete the remaining proceedings in furtherance of the deemed notice, including issuance of re-assessment notice u/s 148 of the IT Act under the new regime. While explaining the methodology for computation of the surviving or balance time limit, the Hon'ble Supreme Court in paragraph-112 of Rajeev Bansal (supra) observed as follows :-

> *"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 notices 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."

16. Therefore, the surviving/balance time limit can be calculated by computing the number of days between the date of issuance of deemed notice and 30.06.2021. In order to compute the surviving/balance time as per the decision of the Hon'ble Supreme Court in paragraph-108, it is relevant to note the following dates: -

S.No.	*Particulars*	*Dates*
1	*Period of Limitation under the Old Act*	*31.03.2021*
2	*First Notice issued u/s 148*	*17.06.2021*
3	*Extended Limitation as per the TOLA*	*30.06.2021*
4	*Surviving Time*	*13 Days*
5	*Date Of Decision of Ashish Agarwal*	*04.05.2022*
6	*Notice u/s 148A(b)*	*31.05.2022*
7	*Assessee's Reply due in two weeks time (31.05.2022 + 15 days)*	*15-06-2022*
8	*Surviving Time Limit (Original 148 notice issued on 17.06.2021 minus 30.06.2021)* *13 days + 15.06.2022*	*28-06-2022*
10	*No need to extend time limit upto 7 days since surviving time limit of 13 days already available*	*28-06-2022*
11	*Order U/s 148A(d)*	*22.07.2022*
12	*Fresh notice u/s 148*	*22.07.2022*
13	*Fresh notice admittedly issued beyond 28.06.2022*	

17. Therefore, computing the surviving/balance time limit, as per the decision of the Hon'ble Supreme Court in Rajeev Bansal (supra), we find that the Revenue had only 13 days surviving time limit (i.e., between 17.06.2021 to 30.06.2021) to issue fresh notice u/s 148 of the IT Act of the new regime in the present case, i.e. till 28.06.2022 as per above chart, after scheduled date of receipt of the response from the assessee on 15.06.2022 to the show cause notice dated 31.05.2022 issued u/s 148A(b) of the IT Act. However, undisputedly, in the present case, the fresh notice u/s 148 of the IT Act was issued on 22.07.2022, i.e., 24 days after the surviving/balance time period as per calculation prescribed in the decision of Hon'ble Supreme Court in Rajeev Bansal (supra).

18. In this regard, we find support from the judgement passed by Hon'ble Bombay High Court in the case of Hitesh Ramniklal Shah vs. Assistant Commissioner of Income-tax [2025] 180 taxmann.com 642 (Bombay) wherein Hon'ble Court under identical facts allowed the appeal filed by the asessee by observing as under :-

> *"**26.** After considering the above exclusion period, we observe that the remaining days for conclusion of the procedure for passing of an order in terms of Section 148A(d) and issuance of the notice under Section 148 of the Act would be two days. In the present case,*

> *whichever way we see it, the period of two days would expire on 10 June 2022 or 27 June 2022 respectively and, therefore, the notice under Section 148 of the Act issued on 27 July 2022 is time barred, inasmuch as it is issued much after the surviving period. We concur with the judgments of the co-ordinate bench in Gurpreet Singh (supra), of the Delhi High Court in Ram Balram Buildhome (P.) Ltd (supra) and the Gujarat High Court in Dhanraj Govindram Kalle (supra) which have dealt with the surviving period and quashed the notices issued under Section 148 of the Act passed beyond the surviving period.*
>
> ***27.*** *In view of the above, it is apparent that Respondent No.1 has acted beyond jurisdiction and we accordingly set aside the impugned notice issued under Section 148 of the Act as well as all the subsequent notices issued under Section 142(1) and the show cause notice on the above ground. The other contentions raised by the Petitioner are kept open."*

19. Respectfully following the judgment of Hon'ble Supreme Court in Ashish Agarwal (supra) and Rajeev Bansal (supra), and the judgement of Hon'ble Bombay High Court in the case of Hitesh Ramniklal Shah (supra), we are of the considered opinion that the notice issued u/s 148 of the IT Act on 22.07.2022 is barred by limitation period specified u/s 149 of the IT Act and accordingly, we declare the impugned notice dated 22.07.2022 issued u/s 148 of the IT Act as *void ab initio* and bad in law. Therefore, the same is quashed. Consequently, the entire re-assessment proceedings and assessment order passed u/s 147 r.w.s. 144B of the IT Act are also quashed. Thus, the additional ground no.1 raised by the assessee is allowed. Since we have quashed the

reassessment notice and consequential reassessment order by allowing additional ground no.1 raised by the assessee, the remaining grounds/additional ground raised by the assessee becomes infructuous, hence not adjudicated by us.

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

Order pronounced on this 12th day of October, 2026.

Sd/-	Sd/-
(R. K. PANDA)	**(VINAY BHAMORE)**
VICE PRESIDENT	**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 12th October, 2026.

Sujeet/DOC

Sujeet Kumar Sharma

Digitally signed by Sujeet Kumar Sharma
Date: 2026.10.13 12:12:14 +05'30'

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "**SMC**" बेंच, पुणे / DR, ITAT, "**SMC**" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Assistant Registrar
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.