IN THE INCOME TAX APPELLATE TRIBUNAL
"B"BENCH: BANGALORE

BEFORE SHRI BALAKRISHNAN S., ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER

ITA No. 3103/Bang/2025
Assessment Year: 2014-15

P. Venkatachalapathy(HUF) C/o Fiscal Law Partners, Advocates #32/2, 2nd Floor, 18th Cross Sadashivanagar Bengaluru 560 080 **PAN No.AAJHP2862C**	**Vs.**	ITO Ward 3(2)(1) Bengaluru
APPELLANT		**RESPONDENT**

Appellant by	:	Sri Hemant Pai, Advocate, A.R.
Respondent by	:	Sri Pradeep S., Addl. CIT-DR

Date of Hearing	:	09.07.2026
Date of Pronouncement	:	06.10.2026

O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER:

This appeal at the instance of the assessee is directed against the order of the ld. CIT(A)/NFAC, Delhi dated 29.10.2025 vide DIN & Order No. ITBA/NFAC/S/250/2025-26/1082100611(1) passed u/s 250 of the Income Tax Act, 1961 (in short "the Act") for the AY 2014-15.

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

1. *The order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeals Centre ("CIT(A)"), under section 250 of the Income Tax Act, 1961 ("the Act") dated 29.10.2025 insofar as it is against the Appellant, is opposed to law, weight of evidence, natural justice and preponderance of probabilities on the facts and circumstances of the Appellant's case.*

2. *The learned CIT (A) erred in law and on facts in passing an ex parte order under section 250 of the Act on the facts and circumstances of the case,*

3. *The initiation of reassessment proceedings is bad in law and without jurisdiction on the facts and circumstances of the case.*

4. *The purported sanction accorded under section 151 of the Act is bad in law on and consequently, the impugned proceedings are vitiated on the facts and circumstancesof the case.*

5. *The mandatory procedures applicable for reassessment proceedings are not followed and consequently, the impugned proceedings are vitiated on the facts and circumstances of the case.*

6. *The notice issued under section 148A(b) of the Act is non est and bad in law on the facts and circumstances of the case.*

7. *The order passed under section 148A(d) of the Act is non est and bad in law on the facts and circumstances of the case.*

8. *The notice issued under section 148 of the Act is non est and bad in law on the facts and circumstances of the case.*

9. *The notice issued under section 148 of the Act is barred by limitation on the facts and circumstances of the case.*

10. *The reassessment order passed under section 147 read with section 144 of the Act is non est and bad in law on the facts and circumstances of the case.*

11. *The reassessment order passed under section 147 read with section 144 of the Act is barred by limitation on the facts and circumstances of the case.*

12. *The Appellant denies itself liable to be assessed at a total income of Rs. 52,84,793/on the facts and circumstances of the case.*

13. *The learned CIT (A) erred in law and on facts in upholding the addition amounting to Rs.* 52,84,793/- *being alleged long term capital gain by invoking the provisions of 50C of the Act on the facts and circumstances of the case.*

14. *The authorities below failed to appreciate that the rigours of section 50C of the Act are not attracted on the facts and circumstances of the case.*

15. *The authorities below failed to appreciate that there is no escapement of income as no transfer of immovable property took place during the impugned year and consequently, the entire proceedings are vitiated on the facts and circumstances of the case.*

16. *The Appellant denies liability to pay interest under section 234A and 234B of the Act on the facts and circumstances of the case.*

3. Brief facts of the case are that a search action u/s 132 of the Act was conducted in the case of M/s. APG Intelli Homes Pvt. Ltd. During the course of search, incriminating documents were found and seized relating to M/s. P. Venkatachalapathy (HUF) and on going through the documents, it was found that the assessee had entered into Memorandum of Understanding and the sale deed with Sujai M. R. Gowda (HUF) in respect of sale of vacant land 112, Byadrahalli, KasabaHobli, Bangalore, for a valuable sale consideration of Rs.4,50,00,000/-, whereas the guidance value of the property is Rs.8,84,27,000/- during the financial year 2013-14 relevant to AY 2014-15. Therefore, in this case, the sale consideration value was less than the guidance value and thus the transaction attracts provisions of section 50C of the Act. Based on the information in possession, the assessment was reopened by issue of notice u/s 148 of the Act dated **28/06/2021.**

3.1 Thereafter, as per the direction of the Hon'ble Supreme Court in the case of Ashish Agarwal, the information on the basis of which this case was reopened had been provided to the assessee vide show cause notice u/s 148A(b) of the Act dated **23/05/2022**. The assessee was required to furnish his response/reply within 15 days from the receipt of the notice. The assessee did not furnish any explanation in response to the notice issued u/s 148A(b) of the Act. Thereafter, as per the directions of the Hon'ble Supreme Court and on the basis of material information available on record, the AO passed an order u/s. 148A(d) of the Act on **27/07/2022** holding that it is a fit case for the issuance of notice u/s. 148 of the Act for the AY 2014-15. As observed by the AO, the order u/s 148A(d) of the Act was passed with prior approval of the Principal Chief Commissioner of Income

Tax, Karnataka & Goa Region, Bengaluru.The AO thereafter issued notice u/s. 148 of the Act on the same day i.e. on **27/07/2022** directing the assessee to file a return in the prescribed form within 30 days from the service of notice. The AO thereafter completed the assessment proceedings on a total assessed income of Rs.52,84,793/- u/s 147 r.w.s. 144 of the Act on **19.05.2023.**

4. Aggrieved by the assessment completed u/s. 147 r.w.s 144 of the Act vide order dated 19/5/2023, the assessee preferred an appeal before the ld. CIT(A)/NFAC.

5. The ld. CIT(A)/NFAC dismissed the appeal of the assessee by holding that the assessee failed to demonstrate as to how the capital gain is not chargeable to tax and as to how the action of the AO of taxing the LTCG of Rs.52,84,793/- is not correct with supporting evidences during the appellate proceeding inspite of giving 4 nos. of opportunities and accordingly find no infirmity in the assessment order.

6. Again, aggrieved by the order of ld. CIT(A)/NFAC dated 29.10.2025, the assessee has filed the present appeal before this Tribunal. The assessee has also filed a paper book comprising 128 pages containing therein the copies of notices and order as well as case laws relied upon by the assessee.

7. Before us, the ld. A.R. of the assessee by pressing the legal ground submitted that the notice issued u/s 148 of the Act dated **27.07.2022** is barred by limitation as held by the Apex Court in the case of **Union of India Vs. Rajeev Bansal** reported in 469 ITR 46 and submitted that the said notice is beyond “surviving period” as specified in para 114(g) and 114(h) of the judgment and therefore

the entire subsequent proceedings are fatal and accordingly the reassessment order passed on **19.05.2023** is liable to be quashed. Further, the ld. AR of the assessee submitted that even if we consider the permissible exclusion/ extension under 3rd and 4th proviso as stood then, the notice u/s. 148 could have been issued on or before 14/06/2022. However, in the present case the notice was issued on 27/07/2022 and accordingly the notice is time barred by **44** days and subsequent proceedings including re-assessment order passed are void-ab-initio.

8. The ld. D.R. on the other hand supported the order of the authorities below and vehemently submitted that initially the notice u/s. 148 of the Act was issued on **28.06.2021** as per the old regime read with TOLA**.** Thereafter, as per the Directions of the Hon'ble Supreme Court in the case of Ashish Agarwal (supra), the information on the basis of which the case was reopened had been provided to the assessee vide show cause notice u/s 148A(b) of the Act dated **23.05.2022** and accordingly the order u/s 148A(d) of the Act dated **27.07.2022** was passed & notice u/s 148 of the Act was also issued on the same date. Thus, this is just a continuation of the proceedings initiated on **28.06.2021** as per the directions of the Hon'ble Supreme Court & therefore the notice issued u/s 148 of the Act more particularly by following the CBDT Instruction No.1/2022 dated 11/05/2022 is well within the time line.

9. We have heard the rival submissions and perused the materials available on record. Undisputedly, the present case relates to AY 2014-15. It is also an undisputed fact that the notice u/s **148A(b)** was issued on **23.05.2022** and accordingly the order u/s 148A(d) of the Act was passed on **27.07.2022**. Thereafter, the notice u/s 148 of the Act was issued for AY 2014-15 on the same

day i.e. on **27.07.2022**. A perusal of the material on record will indicate that in relation to the assessment year 2014-15, the AO had issued a notice dated **28.06.2021** under section 148 of the Act, prior to the said provisions being amended with effect from 01.04 2021. Subsequently, in the case of Union of India Vs. Ashish Agrawal (2022) 138 taxmann.com 64 (SC), the apex court while dealing with the aforesaid amendment and notices issued to the assessee under section 148 of the Act subsequent to the amendment, issued the following directions: -

*"**10.** In view of the above and for the reasons stated above, the present Appeals are allowed in part. The impugned common judgments and orders passed by the High Court of Judicature at Allahabad in Writ Tax No. 524 of 2021 and other allied tax appeals/petitions, is/are hereby modified and substituted as under :*
(i) The impugned s. 148 notices issued to the respective assessees which were issued under unamended s. 148 of the IT Act, which were the subject matter of writ petitions before the various respective High Courts shall be deemed to have been issued under s. 148A of the IT Act as substituted by the Finance Act, 2021 and construed or treated to be show-cause notices in terms of s. 148A(b). The AO shall, within thirty days from today provide to the respective assessees information and material relied upon by the Revenue, so that the assessees can reply to the show-cause notices within two weeks thereafter;
(ii) The requirement of conducting any enquiry, if required, with the prior approval of specified authority under s. 148A(a) is hereby dispensed with as a onetime measure vis-a-vis those notices which have been issued under s. 148 of the unamended Act from 1st April, 2021 till date, including those which have been quashed by the High Courts.
Even otherwise as observed hereinabove holding any enquiry with the prior approval of specified authority is not mandatory but it is for the concerned AOs to hold any enquiry, if required;
(iii) The AOs shall thereafter pass orders in terms of s. 148A(d) in respect of each of the concerned assessees; Thereafter after following the procedure as required under s. 148A may issue notice under s. 148 (as substituted);
(iv) All defences which may be available to the assesses including those available under s. 149 of the IT Act and all rights and contentions which may be available to the concerned assessees and Revenue under the Finance Act, 2021 and in law shall continue to be available.

***11.** The present order shall be applicable PAN India and all judgments and orders passed by different High Courts on the issue and under which similar notices which were issued after 1st April, 2021 issued under s. 148 of the Act are set aside and shall be governed by the present order and shall stand modified to the aforesaid extent. The present order is passed in exercise of powers under Art. 142 of the Constitution of India so as to avoid any further appeals by the Revenue on*

the very issue by challenging similar judgments and orders, with a view not to burden this Court with approximately 9000 appeals. We also observe that present order shall also govern the pending writ petitions, pending before various High Courts in which similar notices under s. 148 of the Act issued after 1st April, 2021 are under challenge.

***12.** The impugned common judgments and orders passed by the High Court of Allahabad and the similar judgments and orders passed by various High Courts, more particularly, the respective judgments and orders passed by the various High Courts particulars of which are mentioned hereinabove, shall stand modified/substituted to the aforesaid extent only.*
All these appeals are accordingly partly allowed to the aforesaid extent."

9.1 In pursuance of aforesaid directions issued by the Apex Court, PAN INDIA which applied to the assessee and the notice u/s 148 of the Act dated 28/06/2021 also, which was directed to be treated as a notice u/s 148A(b) of the Act (as amended), the AO furnished /provide information to the assessee vide show cause notice u/s 148A(b) of the Act dated **23.05.2022**. The assessee was required to furnish his response/reply by **07.06.2022**. Thereafter, as per the directions of the Hon'ble Supreme Court and on the basis of material information available on record, the AO passed an order u/s. 148A(d) of the Act on **27.07.2022** holding that it is a fit case for the issuance of notice u/s. 148 of the Act for the AY 2014-15. The AO thereafter issued notice u/s. 148 of the Act on the same day i.e. on **27.07.2022** directing the assessee to file a return in the prescribed form within 30 days from the service of notice. It is the specific contention of the assessee that having regard to the directions issued in Ashish Agarwal's case, the impugned order u/s 148A(d) and notice u/s 148 of the Act had to be issued on or before **14/06/2022** and the same having been issued on **27/07/2022** was clearly barred by limitation as held by the Apex Court in the case of **Union of India Vs. Rajeev Bansal** reported in 469 ITR 46. Thus, the main contention of the assessee is that the notice issued u/s 148 of the Act dated 27/07/2022 for the AY 2014-15 is time barred as it was

issued beyond the surviving period as specified in the case of Rajiv Bansal (supra). The relevant paragraph is reproduced below for ease of reference & convenience-

*"**110.** The effect of the creation of the legal fiction in Ashish Agarwal (supra) was that it stopped the clock of limitation with effect from the date of issuance of Section 148 notices under the old regime [which is also the date of issuance of the deemed notices]. As discussed in the preceding segments of this judgment, the period from the date of the issuance of the deemed notices till the supply of relevant information and material by the assessing officers to the assesses in terms of the directions issued by this Court in Ashish Agarwal (supra) has to be excluded from the computation of the period of limitation. Moreover, the period of two weeks granted to the assesses to reply to the show cause notices must also be excluded in terms of the third proviso to Section 149.*

***111.** The clock started ticking for the Revenue only after it received the response of the assesses to the show causes notices. After the receipt of the reply, the assessing officer had to perform the following responsibilities: (i) consider the reply of the assessee under section 149A(c); (ii) take a decision under section 149A(d) based on the available material and the reply of the assessee; and (iii) issue a notice under section 148 if it was a fit case for reassessment. Once the clock started ticking, the assessing officer was required to complete these procedures within the surviving time limit. The surviving time limit, as prescribed under the Income-tax Act read with TOLA, was available to the assessing officers to issue the reassessment notices under section 148 of the new regime.*

***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."*

9.2 Thus, we are of the considered opinion that the Apex Court has laid down the law to consider such notice as valid notice or invalid notice depending upon the surviving time left between the date of issuance of notice u/s 148 of the Act read with section 3(1) of TOLA up to 30/06/2021 and the issuance of notice u/s 148 of the Act pursuant to the directions issued by the Hon'ble Apex

Court in the case of Ashish Agarwal (Supra). In our opinion, the manner of computation of surviving period and limitation are as follows-

1) 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 June 2021. (Para- 108)

2) The clock starts ticking for the Revenue only after it received the response of the assesses to the show causes notices. (Para- 111)

3) The AO has to consider the reply of the assessee under section 149A(*c*); take a decision under section 149A(*d*) based on the available material and the reply of the assessee; and issue a notice under section 148 if it was a fit case for reassessment. Once the clock started ticking, the assessing officer was required to complete these procedures within the surviving time limit. (Para 111)

4) The AO required to issue notice u/s 148 of the new regime within the time limit surviving under the Act read with TOLA. All notices issued beyond the surviving period are time barred and liable to be set aside. [Para 114 (h)].

9.3 Before proceeding further, it is worthwhile here to note down the important dates for consideration-

SL No.	Particulars	Dates
1)	Date of issue of original Notice during 1/4/21 to 30/6/21	28/06/2021
2)	Date of supply of information as per judgment of Ashish Agarwal	23/05/2022
3)	Date by which reply to be submitted as per SCN	07/06/2022

4)	Date of reply filed by the assessee for the above (As noted in Order u/s 148A(d)	Not filed
5)	Date of Passing the Order U/s 148A(d)	27/07/2022
6)	**Date of issue of notice u/s 148 as per new regime**	27/07/2022

Applying the above Principles laid down by the Hon'ble Supreme Court to the facts of the instant case and adopting the conservative computation, the notice u/s 148 of the Act will be time barred by 44 days as detailed below-

Sl No.	Particulars	Computation	Dates
1.	Date of issue of original notice u/s 148 within the extended period	A	28.6.21
2.	Last date of extended period under TOLA	B	30.6.21
3.	Balance (on inclusive method)	C=B-A	3 days
4.	Minimum days available as per 4th proviso to section 149(1)	D	7 days
5.	Surviving period (para 108 to 113 of Rajeev Bansal)	E (Higher of C & D)	7 days
6.	Date of response filed by the assessee to SCN u/s 148A (b)	F	[Assessee did not respond]
7.	Date on which period of 2 weeks allowed to the assesse to respond to notice ends (Deemed stay as per 3rd Proviso to section 149 and para 114 (g) of Rajeev Bansal)	G	7.6.22
8.	Last date for issuing notice u/s 148 (i.e., 7.6.22 **+ 7 days**)	H=E+G	14.6.22
9.	Actual date of issuance of notice u/s 148	I	27.07.22
10.	Notice is time barred by (para 114 {h} of Rajeev Bansal)	J=I-H	**44 days**

9.4 While arriving at the time barring by 44 days, we have also considered the application of 4th proviso to section 149(1) of the Act, which govern time limit for issuance of notice u/s 148 of the Act. However, the judgment of Hon'ble Apex Court in the case of Rajeev Bansal (supra) did not specify the application of 4th Proviso to section 149(1) of the Act. In view of the above, the order passed u/s 148A(d) of the Act as well as notice issued u/s 148 of the Act both dated 27.07.2022 is hereby quashed and set aside being barred by

limitation and all consequential proceedings are also quashed and set aside.

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

Order pronounced in the open court on 6th Oct, 2026

Sd/-	**Sd/-**
(Balakrishnan S.)	**(Keshav Dubey)**
Accountant Member	**Judicial Member**

Bangalore,
Dated 6th Oct, 2026.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5 Guard file

By order

Asst. Registrar,
ITAT, Bangalore.