आयकर अपीलीय अधिकरण, बेंगलुरू पीठें, बेंगलुरू
INCOME TAX APPELLATE TRIBUNAL,
BANGALORE BENCHES, BANGALORE

BENCH: B

BEFORE SHRI BALAKRISHNAN S., ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER

ITA No. 2322/Bang/2026 **निर्धारण वर्ष**/Assessment Year: **2018-19**)		
M/s. Mahamayo Polymers Pvt. Ltd., No. 15, Ground Floor, 1st C Cross, Sudhamnagar, Bengaluru – 560 027, Karnataka.	**Vs.**	The Income Tax Officer, Ward – 4(1)(3), Bengaluru.
अपीलार्थी Appellant		प्रत्यर्थी **Respondent**
Permanent Account Number of Assessee**:**		**AAHCM5786F**
अपीलार्थी द्वारा/Appellant represented by:		**Shri Siddharth Toshnival, Advocate**
प्रत्यर्थी द्वारा/Respondent represented by:		**Shri Pradeep S., Addl. CIT – DR**

सुनवाई की तारीख / Date of conclusion of hearing:	**13-07-2026**
घोषणा की तारीख / Date of pronouncement:	**09-10-2026**

आदेश / ORDER

PER SHRI SOUNDARARAJAN K., JUDICIAL MEMBER:

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 05/03/2026 in respect of the A.Y. 2018-19.

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2. The brief facts of the case are that the assessee is a private limited company and filed their return of income. Based on the information that the assessee had effected transactions in respect of the rental income as well as effected turnover from the services reported in the Service Tax Return, had proposed to reopen the assessment u/s. 147 of the Act. The notice u/s. 148A(b) was issued on 10/03/2022 by saying that the assessee had not filed their return of income and therefore the income chargeable to tax has been escaped and the assessee had not complied with the said notice and therefore the AO had made an order u/s. 148A(d) of the Act. Based on the proceedings made u/s. 148A(d) of the Act, notice u/s. 148 was issued and the assessee had also filed his return of income on 15/04/2022.

3. Subsequently, the AO had issued notices u/s. 143(2) as well as u/s. 142(1) and the assessee had also furnished their reply along with the supporting documents. The AO had proposed to treat the rental receipts and turnover from services reported in Service Tax Return as escaped income since the same were not satisfactorily explained. The AO had also sought for the documentary evidence in respect of the interest claim of deduction made u/s. 24(1)(b) of the Act. The assessee had not furnished the said details and therefore, the AO had proposed to disallow the interest on housing loan. The AO after verifying the return of income, had accepted that the assessee had reported a rental income of Rs. 49,89,636/- whereas the total rental receipts as per the Service Tax Return is Rs. 55,44,151/- and therefore, proposed to add the difference being the short reporting of its rental receipts amounting to Rs. 5,54,515/-. The AO had also granted the standard deduction and added the balance of Rs. 3,88,160/- as income from house property. The AO had observed that the assessee had not furnished the details and therefore, concluded the assessment by making the above said additions u/s. 147 of the Act.

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4. As against the said order, the assessee filed an appeal before the Ld.CIT(A) and raised legal grounds as well as on merits. The Ld.CIT(A) had confirmed the additions made under the head "Income from House Property" as well as the disallowance of interest u/s. 24(b) of the Act.

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

6. At the time of hearing, the Ld.AR submitted that they are not pressing ground no. 3. The Ld.AR submitted that the notice was issued u/s. 148A(b) of the Act on the premise that the assessee had not filed their return of income whereas the return u/s. 139(1) was filed on 30/09/2018. The Ld.AR further submitted that the assessee had filed their objections to the 148A(b) notice on 26/03/2022 and also brought to our notice that the 148A(b) notice is dated 22/03/2022 and not 10/03/2022 as mentioned in the assessment order, page 2. The Ld.AR also submitted that the AO had erred in not considering the objections given to the notice issued u/s. 148A(b) of the Act before passing the order u/s. 148A(d) of the Act and therefore the said order is bad in law. The Ld.AR also draw our attention to section 148A and submitted that the AO cannot initiate proceedings u/s. 147 without considering the objections whereas in the 148A(d) order dated 31/03/2022, the AO has mentioned that the submission filed by the assessee needs to be examined. The Ld.AR submitted that the AO had not examined the submissions and decide whether or not it is a fit case to issue a notice u/s. 148 and therefore, the order passed u/s. 148A(d) is against the provisions and on that basis, no notice u/s. 148 can be issued.

7. The Ld.AR also draw our attention to section 148A(a) which mandates that enquiry has to be conducted before issuing notice u/s. 148A(b) but in the present case no such enquiry was conducted and the results of the enquiry were also not furnished along with notice u/s. 148A(b) of the Act. The Ld.AR also alleged that no personal hearing has been granted as per section 148A(b) of the

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Act. The Ld.AR submitted that the rental income was declared in the return of income and therefore there is no escaped income u/s. 147 of the Act.

8. The Ld.AR on merits, submitted that there is no difference in the rental income received and reported in the Service Tax Return and relied on the statement of the rental income available in page 4 of the paper book. The Ld.AR also invites our attention to the computation of income filed along with the return and submitted that there is no escapement of rental income. The Ld.AR also furnished the Ledger Sales Account and submitted that the rental income has been correctly recorded in the books. The Ld.AR also submitted that the assessee had filed the reply to the SCN issued on 02/02/2024 along with the documents and submitted that there is no difference in the rental income. The Ld.AR submitted that without considering the objections as well as the documents, the AO had framed the assessment u/s. 147 of the Act. The Ld.AR also submitted that the AO in the assessment order, for the first time, had disallowed the interest claimed u/s. 24(b) of the Act. The Ld.AR submitted that the said disallowance was not put on notice to the assessee in the 148A proceedings as well as in the notice issued u/s. 148 and also in the show cause notice dated 02/02/2024 and therefore the said disallowance is liable to be set aside. Finally, the Ld.AR submitted that the reopening u/s. 147 is bad in law and also filed a paper book enclosing the various notices and replies filed by the assessee and also the documents in support of the above contentions and prayed to allow the appeal.

9. The Ld.DR, on the other hand submitted that the order of the AO as well as the Ld.CIT(A) are on the basis of the material evidence and prayed to dismiss the appeal.

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

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11. The assessee had raised legal grounds and therefore we are first adjudicating the said grounds. In order to adjudicate the said legal grounds, we are extracting the provision.

> *[**Conducting inquiry, providing opportunity before issue of notice under section 148.***
>
> ***148A.** The Assessing Officer shall, before issuing any notice under section 148,—*
>
> *(a) conduct any enquiry, if required, with the prior approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment;*
>
> *(b) provide an opportunity of being heard to the assessee, [23][***] by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a);*
>
> *(c) consider the reply of assessee furnished, if any, in response to the show-cause notice referred to in clause (b);*
>
> *(d) decide, on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under section 148, by passing an order, with the prior approval of specified authority, within one month from the end of the month in which the reply referred to in clause (c) is received by him, or where no such reply is furnished, within one month from the end of the month in which time or extended time allowed to furnish a reply as per clause (b) expires:*

12. As per the scheme of the Act, before issuing the notice u/s. 148 of the Act, the AO has to complete the formalities prescribed u/s. 148A of the Act. Section 148A(a) speaks about the enquiry to be conducted by the AO about the escaped assessment and if he is satisfied, the AO has to issue a notice u/s. 148A(b) of the Act enclosing the result of the enquiry and provide an opportunity of being heard. Thereafter the assessee has to file their objections to the said notice. Finally, the AO has to consider the objection and documents furnished by the assessee and also on the basis of materials available on record,

has to decide whether it is a fit case for issuance of notice u/s. 148 of the Act or not. If the AO had not followed the above procedures and issued notice u/s. 148 of the Act, then the said notice is bad in law and not sustainable.

13. Now we will consider the notice issued u/s. 148A(b) of the Act. The said notice was issued based on the wrong impression that the assessee had not filed their return of income. Before issuing this notice, if the AO had conducted any enquiry, he could have noticed that the assessee had filed their return of income and declared the rental incomes and therefore there is no escaped income. We have also noticed that along with the return of income, the assessee had filed the computation of income in which the rental incomes were properly shown. It shows that the AO has no solid information about the escaped assessment. We have also perused the reply to the said notice. Along with the reply, the assessee had enclosed the computation sheet and the copy of the return of income and demonstrated that the rental income was declared in the return and taxes were also paid. Therefore, there is no cause of action as contemplated under the provisions for initiating proceedings u/s. 147 of the Act.

14. The AO while passing the order u/s. 148A(d), had accepted that the objections were filed by the assessee and it need to be examined. As per section 148A(d), the AO has to first decide, whether notice u/s. 148 is required or not, based on the materials available before him and also on the basis of the objections and materials supplied by the assessee. If the AO is satisfied that there are valid reasons for treating the income as escaped, then he should reject the objections by passing a speaking order and thereafter notice u/s. 148 has to be issued. In the present case, the AO had not considered the objections and the documents, as seen from the observations that the same needs to be examined. Therefore, the AO had not applied his mind before proposing to issue notice u/s. 148 of the Act. Hence the AO had not complied with the provision 148A(d) of the Act but issued notice u/s. 148 which in our view is not correct. When the

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order passed u/s. 148A(d) is held as bad in law, the consequential notice issued u/s. 148 and the assessment proceedings made u/s. 147 are also to be treated as bad in law and the AO has no authority or jurisdiction to pass the order u/s. 147 of the Act.

15. Based on the legal grounds, it is evident that the AO has no information about the escapement and also for the non-compliance of the section 148A, the order made u/s. 148A(d) could not be sustained. Consequently, the notice issued u/s. 148 also does not survive. In such circumstances, the AO has no jurisdiction to make the assessment u/s. 147 of the Act and therefore, we are inclined to allow the appeal.

16. We also draw our support from the judgment of the Hon'ble Bombay High Court in the case of Narendra Kumar Shah vs. ACIT reported in 465 ITR 385 (Bom), wherein it was held that the notice issued without enquiry or verification of information about the filing of the return are bad in law and therefore notice and order has to be set aside.

17. In their submission, the Ld.AR also submitted that the disallowance of interest is not found place in the notice issued u/s. 148A(b) as well as in the order u/s. 148A(d) of the Act and also not mentioned in the 148 notice and therefore the disallowance made in the 147 order is not a valid one and the AO has no jurisdiction to include the said disallowance as income without following the procedures prescribed u/s. 148A of the Act. We have considered the said submission and perused the notices and orders issued u/s. 148A(b) and 148A(d) of the Act. Nowhere this dispute was raised by the AO and therefore in the section 147 assessment, it could not be disallowed. Prior to the disallowance, the assessee should be put on notice as per section 148A(b). We do not find any such proposals. Even in the order made u/s. 148A(d), this disallowance was not mentioned. The 148 notice also does not contain any such disallowance except

the rental income. The AO also not mentioned about the disallowance while issuing the SCN on 02/02/2024. In such circumstances, the arguments made by the Ld.AR merits consideration and therefore, we are inclined to delete this addition.

18. Therefore, we allow the legal ground raised by the assessee and held that the AO has no jurisdiction to initiate proceedings u/s. 147 of the Act.

19. The legal ground number 3 was not adjudicated since the assessee had not pressed the said ground.

20. We are allowing the appeal on the legal ground and therefore the other grounds on merits would be only an academic one and therefore not adjudicated.

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

Order pronounced in the open court on 09th October, 2026.

Sd/-	**Sd/-**
BALAKRISHNAN S.	SOUNDARARAJAN K.
ACCOUNTANT MEMBER	JUDICIAL MEMBER

Bangalore,
Dated: 09th October, 2026.
/MS/

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Copy to:

1	M/s. Mahamayo Polymers Pvt. Ltd., No. 15, Ground Floor, 1st C Cross, Sudhamnagar, Bengaluru – 560 027, Karnataka.
2	The Income Tax Officer, Ward – 4(1)(3), Bengaluru.
3	The PCIT / CIT,
4	The D.R., ITAT, Bangalore Bench

BY ORDER

ASSISTANT REGISTRAR,
I.T.A.T., BANGALORE.

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