IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B", DELHI

BEFORE SH. M. BALAGANESH ACCOUNTANT MEMBER
AND
SH. SUDHIR KUMAR, JUDICIAL MEMBER

ITA No 161/DEL/2026
Assessment Year: 2015-16
&
ITA No.162/Del/2026
Assessment Year:2015-16

Ravindra C/o CA MR Sahu House No. 651 Ist Floor Sector-10A Near GD Goenka Public School Gurgaon Haryana 122001 Gurgaon PAN NO. AMBPR7401B	**Vs.**	**ITO Charkhi Dadri Opp. Jai Hind Hospital, Loharu Road, Charkhidadri-Haryana-127306 Chakri Dadri, Haryana-127306**
(APPELLANT)		**(RESPONDENT)**

Appellant by	Shri M.R. Sahu, CA
Respondent by	Shri Rajesh Kumar Dhanesta, Sr. DR

Date of hearing:	12/08/2026
Date of Pronouncement:	19/08/2026

ORDER

PER SUDHIR KUMAR, JUDICIAL MEMBER:

These appeals by the assessee are directed against the separate orders of the National Faceless Appeal Centre, Delhi [hereinafter referred to as "NFAC)"] vide order dated 02-12-2025 pertaining to A.Y. 2015-16 and arising out the assessment order dated 27-02-2024 u/s.147 and penalty order dated 05-08-2024 of the Income-tax Act, 1961, (in short 'the Act').

2. The assessee has moved the application to raise the additional ground in the appeal. In the application the assessee stated that the ground raised by the assessee is purely legal in nature and goes to the root of the matte. Heard In the light of the observation made in the case of National Thermal Power Corporation v. CIT (1998) 229 ITR 383 (SC) the additional grounds raised by assessee in appeal no.161/Del/2026 are admitted for adjudication. The assessee raised the following additional grounds in appeal:

1 That on facts in the circumstances of the case and in law the JAO erred in issuing preliminary jurisdictional notice u/s 148 dated 03-04-202 and failed to consider the fact that the validity of a notice shall be judged on the basis of law existing as on date on which notice was issued u/s 148 and in terms of Finance Act, 2021 no notice u/s 148 for assessment year 2015-16 could be issued on or after 01-04-2022 based on first proviso to section 149(1) and thus the impugned notice u/s 148 dated 03-04-2022 was barred by limitation and the consequential escaped assessment order dated 27-02-2024 deserves to be held as null and void and liable to be quashed.

2. That on facts in the circumstances of the case and in law the JAO erred in issuing preliminary jurisdictional notice u/s 148 dated 03-04-202 for income escaped assessment beyond three years end of relevant assessment year and failed to consider the information reflected in the bank statement regarding cash deposited in the Punjab National Bank of Rs.45,00,000/- which was wrongly held as Rs.90,00,000/- since the cash deposited in the bank account likely to have escaped assessment was below the monetary deposited in the bank account likely to have escaped assessment was below the monetary threshold of Rs.50 Lakhs, notice u/s 148 dated 03-04-2022 may kindly be held as invalid and the consequential income escaped assessment order dated 27-02-2024 deserves to be quashed.

3. The brief facts of the case are that the case of the assessee was reopened on the basis of information that the assessee has not filed the return of income for A.Y.2015-16 despite of having financial transactions in the form of cash deposit in bank account of Rs.90,00,000/-. Notice under section 148 of the Act was issued on 03-04-2022 to the assessee. Statutory notices were issued to the assessee but no reply was filed by the assessee. The Assessing Officer completed the assessment order after making the additions of Rs.90,00,000/-under section 69A of the Act. Penalty proceeding also initiated against the assessee. In

the penalty proceedings the did not file any submission and the Assessing Officer levied the penalty of Rs.27,81,000/-.

4. Aggrieved the order of the ld. Assessing Officer the assessee filed the appeals before the Ld. NFAC who vide his order dated 02-12-2025 dismissed the appeals without condoning the delay. Being aggrieved the order of the Ld. NFAC the assessee is in appeal before the Tribunal.

5. The Ld. AR of the assessee submitted that notice under section 148 of the Act dated 03-04-2022 is time barred. He also submitted that no notice under section 148 of the Act can be issued after a period of six years from the end of the relevant assessment year i.e 2015-16, so the notice issued by Assessing Officer is time barred. The Ld. AR also submitted that the Ld. NFAC dismissed the appeal of the assessee without condoning the delay. The assessee has shown the sufficient cause not to file the appeal within time. Reliance is placed on the following judgements:

(i) Union of India & others v. Rajeev Bansal Civil No. 8629 of 2024 [2024]469 ITR 46(SC)

(ii) In the case of Himansu Sharma V. Income Tax Officer ITA NO. 820/Del/2026 Delhi Benches Delhi held as under:

2. Before us the Ld. AR argued with the help of a paper book and brought to our notice the paragraph 19f in the case of Rajeev Bansal (supra) which is as under: -

"19. Mr. N Venkataraman, learned Additional Solicitor General of India, made the following submissions on behalf of the Revenue:

a) Parliament enacted TOLA as a free-standing legislation to provide relief and relaxation to both the assesses and the Revenue during the time of COVID- 19. TOLA seeks to relax actions and proceedings that could not be completed or complied with within the original time limit a specified under the Income-tax Act;

b) Section 149 of the new regime provides free crucial benefits to the assessee: (1) the four-year time limit for all situations has been reduced to three years; (ii) the first proviso to Section 149 ensures that re-assessment for previous assessment years cannot be undertaken beyond six years; and (ii) the monetary threshold of Rupees fifty lakhs will apply to the re assessment for previous assessment years;

c) The relaxations provided under section 3(1) of TOLA apply "notwithstanding anything contained in the specified Act." Section 3(1), therefore, overrides the time limits for issuing a notice under section 148 read with Section 149 of the Income tax Act;

d) TOLA does not extend the life of the old regime. It merely provides a relaxation for the completion or compliance of ITA No.820/DEL/2026 HIMANSHU SHARMA, BHIWANI 3 actions following the procedure laid down under the new regime;

e) The Finance Act 2021 substituted the old regime for reassessment with a new regime. The first proviso to Section 149 does not expressly bar the application of TOLA Section 3 of TOLA applies to the entire Income-tax Act, including Sections 149 and 151 of the new regime. Once the first proviso to Section 149(1)(6) is read with TOLA, then all the notices issued between 1 April 2021 and 30 June 2021 pertaining to assessment years 2013-2014, 2014-2015, 2015- 2016, 2016-2017, and 2017-2018 will be within the period of limitation as explained in the tabulation below:

Assessment Year	*Within 3 years*	*Expiry of limitation read with TOLAfor*	*Within six years*	*Expiry of limitation read with TOLA for*

		2		*(4)*
2013-14	*31-03-2017*	*TOLA not applicable*	*31-03-2020*	*30-06-2021*
2014-15	*31-03-2018*	*TOLA not applicable*	*31-03-2021*	*30-06-2021*
2015-16	*31-03-2019*	*TOLA not applicable*	*31-03-2022*	*TOLA not applicable*
2016-17	*31-03-2020*	*30-06-2021*	*31-03-2023*	*TOLA not applicable*
2017-18	*31-03-2021*	*30-06-2021*	*31-03-2024*	*TOLA not applicable*

f) The Revenue concedes that for the assessment year 2015- 16, all notices issued on or after | April 2021 will have to be dropped as they will not fall for completion during the period prescribed under TOLA; [Emphasis added]

g) Section 2 of TOLA defines "specified Act" to mean and include the Income-tax Act. The new regime, which came into effect on 1 April 2021, is now part of the Income-tax Act. Therefore, TOLA continues to apply to the Income Tax Act even after 1 April 2021; and

h) Ashish Agarwal (supra) treated Section 148 notices issued by the Revenue between 1 April 2021 and 30 June 2021 as show cause notices in terms of Section 148A(6). Thereafter, the Revenue issued notices under section 148 of the new regime between July and August 2022. Invalidation of the Section 148 notices issued under the new regime on the ground that they were issued beyond the time limit specified under the Income-tax Act read with TOLA will completely frustrate the judicial exercise undertaken by this Court in Ashish Agarwal (supra)."

It was pointed out that the notice u/s 148 of the Act has actually been issued on 03.04.2022 and thus, was clearly beyond the limit mentioned by the Ld. ASG before the Hon'ble Supreme Court as per para 19f (supra).

2.1 The Ld. AR relied on the orders of the authorities below. 3. We have considered the submissions and have gone through the documents before us. We have also carefully perused the judgment of the Hon'ble Supreme Court in the case of Rajeev Bansal (supra). We find that this case would need to be decided in favour of the assessee since all notices u/s 148 of the Act issued after 01.04.2021 would need to be held to be invalid in the eyes of law. Accordingly, we quash the impugned notice issued u/s 148 of the Act issued on 03.04.2022. Consequently, the subsequent proceedings are also held to be invalid.

4. In the result, appeal of the assessee is allowed.

(iii) In the case of The Gharthoon Agriculture Services Society v. The ITO in ITA no. 925 to 928 / CHD/2025 dated 13-11-2025 the co-ordinate bench held that if the tribunal observed that the Assessing Officer assumed the time barred jurisdiction then no need to restore the file with the Ld. NFAC after condoning the delay.

6. The Ld. DR has relied the orders of the lower authorities and submitted that the assessee did not take part before the Assessing Officer and not filed the appeal with in time.

7. We have heard the parties and perused the material available on record. Firstly, we take the quantum appeal. The notice under section 148 of the Act was issued on 03-04-2022 is without jurisdiction. The Ld. NFAC ought to have appreciated this fact and in this situation ought to have condoned the delay of 543 days, if any happened on account of bonafide error of the assessee. Therefore, we

condone the delay of 543 days in filing the appeal before the Ld. NFAC. In this situation we could be set aside the issue to the file of Ld. NFAC for fresh adjudication after condonation of delay because Ld. NFAC has not adjudicated the issue on merit but that would unnecessarily multiply the litigation. Once we hold that the Assessing Officer wrongly assumed jurisdiction and his action is time barred, then there is no need to send the file to the Ld. NFAC. Accordingly, following the judgement of Hon'ble Supreme court, we observe that notice issued on 03-04-2022 is without jurisdiction hence no assessment proceedings could have taken place on this time barred notice. Accordingly, we quashed the assessment order and allow the appeal of the assessee.

8. Now we take ITA No. 162/Del/2026. There, was a delay of 381 days before the Ld. NFAC. Since we have condoned the delay in the quantum appeal, therefore, following the findings of that appeal, we condone the delay in the present appeal.

9. The Assessing Officer levied the penalty of Rs.27,81,000/- under section 271(1) (c) of the Act on account of concealment of income. Since we quashed the assessment order in the quantum appeal therefore, no

income assessable in the hands of the assessee. Consequently, no penalty is impossible upon the assessee under section 271(1) (c) of the Act. Accordingly, we allow this appeal of the assessee and quash levy of penalty imposed by the Assessing Officer under section 271(1) (c) of the Act. In the result the appeal is allowed.

10. In the result the ITA No. 161/Del/2026 and 162/Del/2026 are allowed.

Order pronounced in the open court on 19.08.2026.

Sd/-	**Sd/-**
(M. BALAGANESH)	**(SUDHIR KUMAR)**
ACCOUNTANT MEMBER	**(JUDICIAL MEMBER)**

SR BHATNAGGAR
Date: 19.08.2026
Copy forwarded to:
1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals) `
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT DELHI

SAG INFOTECH blog