

**IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD**

**DR. B.R.R. KUMAR VICE PRESIDENT
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 869/AHD/2025
(Assessment Year: 2016-2017)**

Scarlet Tradelink Private Limited

A-803, Shalin Opium, Nr. ShalinBanglow,
Praladnagar, Ahmedabad-380051
[PAN:AAOCS4871Q]

..... **Appellant**

Income Tax Officer

Ward-4(1)(1), Ahmedabad

AaykarBahwan(Vejalpur),
Ahmedabad-380015, Gujarat

Vs

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Sudhir Mehta, Advocate
For the Respondent/Department : Shri Amit Pratap Singh, Sr. D.R.

Date

Conclusion of hearing : 01.07.2026
Pronouncement of order : 07.07.2026

ORDER

Per Rahul Chaudhary, Judicial Member:

2. The present appeal preferred by the Assessee is directed against the Order, dated 27/02/2025, passed by the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as the '**CIT(A)**'] whereby Learned CIT(A) had dismissed the appeal against the Assessment Order, dated 26/05/2023 passed under section 147 r.w.s. 143(3) of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'], for the Assessment Year 2016-2017.
3. The Assessee has Grounds of Appeal raised by the Assessee reads as under:

"1. *The Ld. CIT(A) has erred in law and facts while disallowing the appellant ground that for opportunity of being heard is not given to appellant before passing assessment order u/s 147 read with section*

144B of the act as the Ld. AO has given show cause notice on 10-05-2023 which is required to reply by 16-05-2023. The Ld. AO had given only 4 working days to reply the notice. (13.05.2023 and 14.05.2023 was holiday on account of Saturday and Sunday) The Ld. AO has given very short time to reply SCN for such huge addition of Rs. 1,78,13,924/ The Ld. AO has completed the assessment on 26-05-2023 in very hurriedly manner and giving very short opportunity to appellant to reply SCN, due to which Assessee unable to submit all details and evidence, even though the time limit to passed assessment was 31.03.2024 showing in IT portal and the authorities with bias mind passed assessment order. Hence, the Ld. A.O. has not given proper opportunity of being heard to the appellant, which is against the principal of natural justice, and based on the basis of facts and law the assessment order passed without proper opportunity is bad in law and required to be quashed.

2. The Ld. CIT(A) has erred in law and facts while confirming the order passed by the Ld. AO u/s 148A(d) and issuing notice u/s 148 on the basis of unexplained cash credit in appellant bank accounts and The Appellantsubmitted in inquiry proceeding that credit in bank account is not an assets falling u/s 149(1)(b) of the IT Act, and appellant in inquiry proceeding submitted evidence that the amount credited in bank account of appellant is received against sales of goods and not unexplained cash credit, even though the Ld A.O. has passed Order u/s 148A(d) ignoring the law and facts submitted in inquiry proceeding and issued notice u/s 148 for income escaping assessment on purely guess work. The Ld A.O. has failed to discharge his burden of proof to establish the proper reason for issuing notice u/s 148 by his order u/s 148A(d) and merely on assumption arrived on opinion by neglecting the facts and law of cases. Therefore, the LD A.O. has erred in law as well as facts while passing order u/s 148A(d) and initiating Income escaping assessment by issuing notice u/s 148. The order passed u/s 148A(d) is bad in law as thus, order passed on that basis for income escaping assessment is also bad in law.
3. The Ld. CIT(A) has erred in law and facts while disallowing ground of appeal that the Ld. Assessing officer has passed the order u/s 148A(d) and issuing notice u/s 148 of the act without taking approval of appropriate authority and non-supply of approval letter to the appellant and therefore based on the law and facts the order passed u/s 148A(d) and notice issued u/s 148 itself bad In law and based on that assessment u/s 147 done by the Ld. AO is also bad In law and required to be quashed.
4. The Ld. CIT(A) has erred on law as well as in fact while confirming the addition made by the Ld. AO of Rs. 1,78,13,924/- on ground of estimation of business income u/s 28 i.e. 0.5 percent of total sales made to M/s Orange Tradex Pvt. Ltd. and M/s. Krrish Enterprises without any proper justification, grounds and purely on estimation and guess work and based on the basis of fact and law of case, the same is required to be deleted. The entire addition made by the Ld. AO on the basis purely on surmises and conjunction.

Additional Ground

Assessing Officer issued a reopening notice on 05-05-2021 for assessment year 2016-17 and pursuant to decision of Supreme Court in case of Union of India v. Ashish Agarwal [2022] 138 taxmann.com 64/286 Taxman 183/444 ITR 1, issued a fresh notice on 26-05-2022, in view of decision of Supreme Court in case of Union of India v. Rajeev Bansal [2024] 167 taxmann.com 70/301 Taxman 238/469 ITR 46, reopening notice issued on 27-08-2022 was time barred and, thus, original notice issued on 05-05-2021 was invalid."

4. We have heard both the sides and have perused the materials available on record.
5. When the appeal was taken up for hearing, the Learned Authorized Representative for the Assessee challenged the validity of the re-assessment proceedings contending that the order passed by the Assessing Officer u/s. 147 r.w.s. 144B of the Act on 26/05/2023 for the Assessment Year 2016-2017 was barred by limitation. Reliance in this regard was placed upon the judgment of Hon'ble Supreme Court in the case of Union of India v. Ashish Agarwal [2022] 444 ITR 1, and Union of India v. Rajeev Bansal [2024] 469 ITR 46. It was further submitted that the additional ground now being raised by the Assessee, by way of Letter filed on 02/09/2025, could be adjudicated on the basis of material forming part of record and therefore, the Tribunal was empowered to admit and adjudicate the same.
6. In order to show that the notice under Section 148 of the Act was issued after the lapse of the 'surviving period', the Learned Authorised Representative for the Assessee placed on record following list of dates and computation of 'surviving period'.

Particular	Date/Period	Paper Book Page No.
Notice under Section 148 of the Act [Pre-judgment dated 04.05.2022 rendered in the case of Union of India v. Ashish Agarwal]	05.05.2021	21
Surviving period/days before expiry of limitation on 30.06.2021 [Number of days computed by following formula: 30.06.2021 less date on which initial notice under section 148 was issued]	56 days	

Notice under section 148A(b) of the Act	26.05.2022	23 - 115
Date on which reply was required to be filed as per notice issued under Section 148A(b) of the Act	15.06.2022	116
Date on which reply was filed by the Assessee in response to the notice under section 148A(b) of the Act	15.06.2022	24
In response to reply dated 15.06.2022, documents given	-	29
Last date to issue notice under section 148 of the act after considering the surviving period [15.06.2022 + 56 days]	10.08.2022	
Order under Section 148A(d) of the Act	26.08.2022	31
Notice under Section 148 of the Act	27.08.2022	41
Intimation Letter for Notice u/s 148 of the Act	27.08.2022	42

The Learned Authorised Representative for the Assessee also placed reliance upon the decisions of Ahmedabad Bench of the Tribunal in the case of Waves Tradeline Private Limited Vs. Income Tax Officer, Ward – 4(1)(1): ITA No. 1288, 1289 & 1230/AHD/2025 [AY 2015-16, 2016-17 & 2017-18]

7. Per contra, the Learned Departmental Representative vehemently contended that the Assessment Order passed under Section 147 r.w.s. 144B of the Act was within limitation. It was submitted that the Assessee was also issued notice, dated 21/07/2022, granting the Assessee further time. However, the same has not been factored in by the Learned Authorized Representative for the Assessee in the above list of dates and the computation of 'surviving period' [*prepared as per the judgment of the Hon'ble Supreme Court in the case of Rajeev Bansla (supra)*] furnished during the course of hearing.
8. In the rejoinder the Learned Authorized Representative for the Assessee submitted that the Assessee had never sought any further extension/opportunity/time to furnish any reply/documents and therefore, for the purpose of computing period available to the Assessing Officer to conclude assessment, date of reply should be taken as 15/06/2022. Reliance in this regard was placed upon (a)

Reply, dated 15/06/2022, filed by the Assessee; (b) Notice, dated 21/07/2022 issued by the Assessing Officer and (c) Reply, dated 26/07/2022, filed by the Assessee. It was submitted that the above decision of the Ahmedabad Bench of the Tribunal in the case of Waves Tradeline Private Limited was applicable to the present case and therefore, the notice and the assessment order under consideration should be quashed as being barred by limitation.

9. We have considered the rival submissions and have perused the material on record. We are of the view that the additional ground raised by the Assessee can be adjudicated after taking into consideration material on record without inquiring into new facts. Therefore, the additional grounds raised by the Assessee are admitted in view of the judgment of the Hon'ble Supreme Court in the case of National Thermal Power Co. Ltd. Vs. CIT: 229 ITR 383. Accordingly, we proceed to adjudicate the contention raised by the Assessee by way of the additional ground.
10. It emerges from record that notice under Section 148 of the Act was issued for the Assessment Year 2015-2016 on 05/05/2021. In compliance with the judgment of the Hon'ble Supreme Court in case of Union of India and others vs Shri Ashish Agarwal (supra), the aforesaid notice, dated 05/05/2021, issued under Section 148 of the Act (under old regime) was treated as notice issued under Section 148A(b) of the Act (under new regime effective from 01/04/2021). The Assessee filed objections vide Letter, dated 15/06/2022. The Assessing Officer disposed off the objections and issued notice under Section 148 of the Act (new regime) on 27/08/2022. Thereafter, the Assessing Officer passed Assessment Order, dated 26/05/2023, under Section 147 r.w.s. 143(3) of the Act. Before us, the Assessee raised additional ground contending that the 'surviving period' of 56 days computed as per the judgment of the Hon'ble Supreme Court in the case of Rajeev Bansal (supra) started running from 15/06/2022 and lapsed on 10/08/2022. Therefore, the Notice under Section 148 of the

Act issued on 27/08/2022 is barred by limitation. Conversely, the stand taken by the Learned Departmental was that the Assessee was granted further opportunity vide Notice, dated 21/07/2022, and in response to the same Assessee filed reply on 26/07/2022. The notice under Section 148 of the Act has been issued within 56 days from 26/07/2022 and therefore, the same is not barred by limitation. We note that in the present case, the Assessee filed his reply/response on 15/06/2022. In the said reply letter the Assessee placed his submission along with supporting documents before the Assessing Officer and requested the Assessing Officer to drop the reassessment proceedings. Thereafter, the Assessing Officer issued notice, dated 21/07/2022, giving the Assessee further time even though the Assessee had not sought for further time. In Reply Letter, dated 26/07/2022, the Assessee stated as under:

"We had received your notice u/s 148A(b) dated 21-07-2022 for conducting inquiry, providing opportunity before issuing notice u/s 148 of the Income Tax Act 1961. We have filed detailed submission vide letter dated 15-06-2022 where in first, we have explained inapplicability of Sec 148 in our case with reference to the Supreme court judgement i.e. Union of India &Ors. Vs. Ashish Agrawal vide CIVIL Application Number 3005/2022 dated 04-05-2022 considering facts of our case and secondly, we have submitted the evidence and document in support of our claim that our scrutiny should not be initiated u/s 148.

We have sheer view that assessment u/s 148 can't be initiated in our case and to explain our view and our submission we request you to grant us opportunity of being heard by giving personnel hearing in our case."

11. Give the above factual position, we accept the contention of the Assessee that in the facts and circumstances of the present case, 15/06/2022 would have to be taken as the date of reply filed by the Assessee and the limitation for the Assessing Officer to issue notice under Section 148 of the Act within the 'surviving period' would start running from the said date. Computed thus, the 'surviving period' of 56 days lapsed on 10/08/2022. Since the notice under Section 148 of the Act was issued on 27/08/2022, the same is barred by limitation as

per the judgment of the Hon'ble Supreme Court in the case of Rajeev Bansal (supra). Therefore, the notice issued under Section 148 of the Act and the consequent Assessment Order, dated 26/05/2023, passed under Section 147 read with Section 143(3) of the Act for the Assessment Year 2016-2017 are quashed. Additional Ground raised by the Assessee is allowed and all the other grounds raised by the Assessee in the present appeal are dismissed as having been rendered infructuous.

12. In the result, in terms of paragraph 11 above, the present appeal preferred by the Assessee is allowed.

This Order is pronounced on 07/07/2026

Sd/-
(Dr. BRR Kumar)
Vice President

Sd/-
(Rahul Chaudhary)
Judicial Member

अहमदाबाद/**Ahmedabad**;
दिनांक /Dated : 07.07.2026

True Copy

Rajesh

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. संबंधितआयकरआयुक्त/ Concerned CIT
4. आयकरआयुक्त(अपील) / The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण/ DR, ITAT,
6. गार्डफाईल /Guard file.

आदेशानुसार/BY ORDER,

उप/सहायकपंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, अहमदाबाद / ITAT, Ahmedabad