

**THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH “B”NEWDELHI**

**BEFORE SHRI SUDHIR KUMAR, JUDICIAL MEMBER  
AND  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.6556/Del/2025  
Assessment Year: 2013-14**

K&S Fincon Pvt. Ltd. 915 Devika Tower Nehru Place Nehru Place South Delhi -110019	<b>Vs.</b>	Income Tax Officer, Ward-14(1), Delhi
<b>PAN No. AADCK1783A</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Ms. Rano Jain, Adv, Ms. Mansi Jain, Adv, Shri Tanishq Ahuja, Adv.
Respondent by	Ms. Pooja Swaroop, CIT (DR)

Date of hearing	04.02.2026
Date of pronouncement	11.02.2026

**ORDER**

**PER SUDHIR KUMAR JM:**

The assessee preferred the appeal, challenging the order dated 29-08-2025 passed by National Faceless Appeal Centre Delhi (in short NFAC) arising out from the assessment order dated 29-05-2023 passed by the Assessing Officer for A.Y. 2013-14 under the section 147 r.w.sc144B of the Income Tax Act, 1961(In short “the Act”).

2. The assessee has raised the legal grounds in appeal that the notice issued u/s 148 of the Act is barred by limitation. This goes to root the matter and hence, is taken up first for adjudication.

3. The brief facts of the case are that the assessee has filed the return of income by declaring income of Rs.29,820/- on 26-10-2013 for A.Y.2013-14. The return was processed u/s 143(1) of the Act on 13-03-2014. The case of the assessee was selected for scrutiny u/s 143(3) of the Act and Assessment order was passed on 14-03-2016 with assessed income of Rs.6,75,260/-. Subsequently information was received through Insight Portal, from the ADIT (Inv)-1 Faridabad, Haryana wherein it was reported that Axis Bank has identified an account no. 910020029201341 in the name of M/s Zubri Fibers Pvt. Ltd. wherein high value transfer, RTGS and clearing credits followed by RTGS debits and cash withdrawals were seen. During the investigation the statement of Shri Ganga Ram was recorded on oath u/s 131(1A) of the Act. In his statement he admitted that M/s Softech Enterprises and M/s Sunshine trading Co. were opened the account on the directions of key persons of M/s Zubri Fibers Pvt. Ltd. but no actual business was carried out by these concern. He also admitted in his statement that the amount deposited in these entities were subsequently transferred to M/s Zuberi Fibers Pvt. Ltd. The M/s K & S Fincon Ltd. is also one of beneficiary from these bogus entities. Notice u/s 148 of the Act after taking the approval from the competent authority, was issued on 07-06-2021 on the basis of the information in possession of the AO as per the CBDT Notification no.20 dated 31-03-2021 and subsequent



Order u/s 148 A(d)  
Notice u/s 148 of the Act

20-07-2022  
20-07-2022

6. In consequence to the directions issued by the Hon'ble Supreme court in the case of Union of India vs. Ashish Agarwal dated 04-05-2022 the Assessing Officer issued the fresh notice u/s 148 of the Act on 20-07-2022. He further submitted that as per the section 149 of the Act the notice u/s 148 of the Act could be issued within a period of six years from the end of the relevant assessment year i.e. 2013-2014. The limitation of issuing notice expired on 31-03-2021. In the present case the notice u/s 148 of the Act was issued on 20-07-2022 which is beyond time. Reliance has placed on the decisions of Union of India & Ors Vs. Rajeev Bansal 2024 (10) TMI 264 Supreme Court (LB) in this Case the Hon'ble Supreme Court held as under:

*“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 segment of the judgment, the period from the date of the issuance of the deemed notices till the supply of relevant information and material by the assessing officer to the assessee in terms of the direction 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 assessee to reply to the cause notices must 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 assessee to the show cause 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 see State of AP v. AP Pensioners Association, (2005) 13 SCC 161 [28]. [This court observed that the “legal fiction undoubtedly is to be construed in such a manner so as to enable a person, for whose benefit such legal fiction has been created, to obtain all consequences flowing there from.”]*

*PART F 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, notice 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.”*

7. In the above cited case, the revenue concedes that for the assessment year 2015-16, all notices issued on or after 1st April 2021 will have to be dropped as they will not fall for completion during the period prescribed under TOLA. Ld. AR also relied on the following decision:

- (i) Deveshi Sharma v. Income Tax Officer ward -34(1) Delhi , 2025 (9) THI 1187 –ITAT Delhi*
- (ii) Honeywell Exim Private Limited v. ACIT, Circle -10(1) DELHI2025 (11) TMI 1300- ITAT Delhi*
- (iii) Genesis Associates P. Ltd. V. Assessment Unit, EL –W-(42)(1) and (Vice- Versa) 2025(11) TMI 1068 ITAT – Delhi*
- (iv) DCIT Circle 19 (1) Deelhi v. Rakshit Bullllllildcon Pvt. Ltd. 2025(12) 185 ITAT Delhi*

8. The Ld. DR relied upon the orders of the lower authorities. She submitted that the appeal of the assessee was partly allowed by the Ld. NFAC and assessment order has been set aside by the Ld. NFAC, therefore tribunal has no power to decide the legal issue at this stage.

9. We have heard the revival contention of the parties and gone through the material available on record. Ld. DR submitted that the issue of time barred has not been taken before the Ld. NFAC then tribunal has no power to decide the issue at this stage. The assessee has raised this issue before the Ld. NFAC but was not decided by Ld. NFAC. If any legal issue was not decided by the Ld. NFAC the tribunal can decide the issue being legal issue. The argument of the Ld. DR is not tenable.

10. In view of the observation of the Hon'ble Supreme Court in the case of Rajeev Bansal (Supra) the extended due date for issuance of notice u/s 148 of the Act expired on 25-06-2022 and since, the notice is u/s 148 of the Act is issued on 20-07-2022 the said notice is to be treated as time barred by limitation and consequentially reassessment proceedings would be liable to be quashed as void ab initio. Respectfully following the decision of the Hon'ble Supreme Court, we hold that the notice issued u/s 148 of the Act on 20-07-2022 is time barred by limitation. Accordingly the legal issue raised by the assessee is allowed.

10 Since we have decided the legal ground in favour of the assessee, the other grounds have become academic and keep them open for adjudication.

11. In the result the appeal of the assessee is allowed.

Order pronounced in the open court on 11/2/2026.

**Sd/-**

**(MANISH AGARWAL)  
ACCOUNTANT MEMBER**

**Sd/-**

**(SUDHIR KUMAR)  
JUDICIALMEMBER**

Dated: 11/02 /2026

“SR Bhatnagar”

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Delhi