

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, AHMEDABAD**

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.737/Ahd/2025
(Assessment Year: 2015-16)

Prakash Babulal Bhandari, 4, 2 nd Floor, Surbhi Apartment, 13, Shrenik Society, Naranpura, Ahmedabad-380013	Vs.	Income Tax Officer, Ward-3(3)(1), Ahmedabad
[PAN No.AAUPB2933R]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Kirit B. Soni, A.R.
Respondent by:	Shri Hargovind Singh, Sr. DR

Date of Hearing	10.06.2025
Date of Pronouncement	18.06.2025

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 11.03.2025 passed for A.Y. 2015-16.

2. The Assessee has taken the following grounds of appeal:-

“1. The Assessing Officer has erred on the fact and by law showing addition u/s 69 more by Rs. 10,00,000/- as apparent mistake on record (Addition of Rs 51,26,522/- instead of Rs. 41,26,522/-).

2. The Assessing Officer has erred on the fact and by law showing additions of Interest Money by Rs. 3,95,000/- as apparent mistake on record (Addition of Rs. 4,34,183/- instead of Rs. 39,183/-).

3. As a result of these errors, the total addition of Rs. 55,60,705/- should be reduced by Rs. 13,95,000/- (10,00,000/- as shown in Point 1 + 3,95,000/- as shown in Point 2), bringing the corrected addition to Rs. 41,65,705/- (i.e. Rs. 55,60,705/- - Rs.13,95,000/-).

4. Since the revised addition of Rs.41,65,705/- is less than Rs.50,00,000/-, the notice issued under Section 148 is rendered invalid under the provisions of Section

149 of the Income Tax Act, 1961. As a result, the assessment proceeding rendered is Invalid.

5. The Assessing Officer has also failed to consider and appreciate the evidences provided, including Lorry Receipts and Transport Receipts, substantiating sales made outside Gujarat amounting to Rs.22,29,222/- and sales within Gujarat amounting to Rs.13,97,200/-. The omission to acknowledge these evidences has resulted in an unjustified addition to the taxable income.

6. The appellant reserves his right to add, amend, alter or modify any of the ground stated herein above either before or at the time of hearing."

3. The brief facts of the case are that the assessee filed return of income for the impugned assessment year, declaring total income at Rs. 7,77,960/-. However, the Assessing Officer initiated re-assessment proceedings under Section 148 of the Act on the ground that as per information available, the assessee made transactions of Rs. 55,60,705/- in his bank account maintained with M/s. Renuka Mata Multi State Urban Cooperative Credit Society Ltd. The Assessing Officer was of the view that the bank accounts maintained with M/s. Renuka Mata Multi State Urban Cooperative Credit Society Ltd. were simply used to route unaccounted money and hence income to the tune of Rs. 55,60,705/- had escaped assessment, which was required to be added as unexplained income of the assessee. During the course of re-assessment proceedings, the assessee submitted that out of the aforesaid transactions of Rs. 55,60,705/-, a sum of Rs. 14,34,138/- had been received by the assessee on maturity of fixed deposits and therefore, the same was clearly required to be deducted from the proposed addition. For the balance transactions, the assessee submitted that the same was out of transportation business carried out by the assessee. The Assessing Officer did not agree with the contention of the assessee that the balance deposits were from the transportation business carried out by the assessee, however, the Assessing Officer did agree with the contention of the assessee that a sum of Rs. 14,34,183/- had been received by the assessee on maturity of fixed

deposits. Accordingly, the Assessing Officer made an addition of Rs. 41,26,522/- as unexplained income of the assessee under Section 69 of the Act, with the following observations:

*“From the bank statement it is seen that there are transactions to the extent of Rs. 55,60,705/-. Out of the cash deposits, it is seen that Rs 10,05,000/- has been made as Fixed Deposits on various dates during the year. **Further Rs 14,34,183/- has been received on maturity of the FDs. Thus a sum of Rs 4,34,183/- has been received as interest income out of these FDs. From the above, it is seen that the source of cash deposits to the extent of Rs.41,26,522/- (5560705 - 1434183) remains unexplained.** Further vide letter dated the assessee has stated that the interest earned is Rs. 39,183/- only, the assessee has not furnished any evidence for the same. Hence, the interest earned out of the FDs out of these cash deposits of Rs. 4,34,183/- is added back to the total income as Income from Other Sources. In view of the above, the total cash deposits/credits amounting to Rs.41,26,522/-, the sources of which remain unexplained is treated as unexplained investment u/s.69 and taxed accordingly.”*

4. In appeal, Ld. CIT(A) upheld the additions made by the Assessing Officer.

5. Before us, the Counsel for the assessee has taken a technical / legal ground that as per Section 149 of the Act, re-assessment proceedings cannot be initiated unless income of the assessee which has escaped assessment is likely to exceed Rs. 50,00,000/- or more. In the instant case, the Assessing Officer had made additions only to the extent of Rs. 41,00,000/- during the re-assessment proceedings and accordingly, looking into the instant facts, the issuance of notice under Section 148 of the Act was clearly barred by limitation, having been issued after three years from the end of the relevant assessment year.

6. In response, Ld. D.R. submitted that in the instant case, the Assessing Officer had information in his possession that the assessee had transactions with M/s. Renuka Mata Multi State Urban Cooperative Credit Society Ltd. amounting to Rs. 55,60,705/- and accordingly, since the income “likely” to escape assessment was exceeding the 50 lakh limit as

specified under Section 149 of the Act, the issuance of notice was not barred by limitation.

7. We have heard the rival contentions and perused the material available on record.

8. It would be useful to reproduce Section 149 of the Act for ready reference:

“149. Time limit for notice- (1) No notice under section 148 shall be issued for the relevant assessment year,-

(a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);

*(b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence **which reveal that the income chargeable to tax, represented in the form of –***

(i) an asset;

(ii) expenditure in respect of a transaction or in relation to an event or occasion;

or

(iii) an entry or entries in the books of account,

Which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more.”

9. On going through the facts of the instant case, it is an undisputed position that the notice was issued beyond a period of three years from the end of the relevant assessment year. The Counsel for the assessee has taken a legal argument that since in the instant facts, the addition which was made in the re-assessment proceedings was less than Rs. 50,00,000/- , the issuance of notice was barred by limitation. On the other hand, Ld. DR has taken an argument that since as per information available with the Department, the assessee had done transactions with M/s. Renuka Mata Multi State Urban Cooperative Credit Society Ltd. amounting to Rs.

55,60,705/-, the income likely to escape the assessment was more than Rs. 50,00,000/- and hence the issuance of notice was not barred by limitation. On going through the language of the Statutory Provisions, it is seen that Section 149 of the Act places a limitation on issuance of notice beyond the period of three years from the end of the relevant assessment year, if the income chargeable to tax which has escaped assessment, as per the information with the Assessing Officer, amounts to or likely to amount to Rs. 50,00,000/- or more. In the instant case, the contention of the Ld. DR was that as per information available with the Assessing Officer, the income likely to escape assessment was likely to exceed Rs. 50,00,000/- since the assessee had made transactions with M/s. Renuka Mata Multi State Urban Cooperative Credit Society Ltd. amounting to Rs. 55,60,705/- . However, on going through the contents of the assessment order, it is evident that out of these transactions of Rs. 55,60,705/-, a sum of Rs. 14,34,183/- was on account of amount credited in the bank account of the assessee towards maturity of fixed deposits. This fact was specifically accepted by the Assessing Officer during the course of assessment proceedings and accordingly, the addition was restricted to Rs. 41,26,522/-. In our considered view, the words “likely to amount to fifty lakh rupees or more” cannot be read in a manner that the Assessing Officer would be at liberty to initiate re-assessment proceedings, by way of issuance notice under Section 148A of the Act, without analyzing the information on the basis of which the re-assessment proceedings have been initiated. In this case, we observe that evidently, on a basic perusal of the bank statement of the assessee held with M/s. Renuka Mata Multi State Urban Cooperative Credit Society Ltd. a sum of Rs. 14,34,183/- was on account of amount credited in the bank account of the assessee on account of maturity of fixed deposits. Therefore, had the Assessing

Officer undertaken a basic analysis of the transactions done by the assessee with M/s. Renuka Mata Multi State Urban Cooperative Credit Society Ltd., there was no question of coming to the conclusion that this amount had escaped assessment in the hands of the assessee. Even, during the course of re-assessment proceedings, the Assessing Officer accepted this fact and the aforesaid amount was not added in the hands of the assessee. Accordingly, in our considered view, the Assessing Officer is expected to analyze the information available with him, before forming the belief, whether the income which is likely to escape assessment is in excess of Rs. 50,00,000/-. In this case, we are of the considered view that there was an evident non-application of mind by the Assessing Officer on the information available on record and the Assessing Officer did not carry out the necessary analysis of the information available with him so as to ascertain whether the income which is likely to escape assessment, is in excess of Rs.50,00,000/-. Accordingly, in light of the above facts, we are of the view that notice issued by the Assessing Officer under Section 148A of the Act is barred by limitation, since firstly, a preliminary analysis of information by the Assessing Officer before issuance of notice would have led to a clear conclusion that income of the assessee was not likely to exceed Rs. 50,00,000/- and secondly, even the additions which were made by the Assessing Officer were not in excess of Rs.50,00,000/-.

10. In the case of **Rohit Kumar vs. ITO, Ward 54(1), Delhi Writ Petition (C) No. 2830/2022 (Delhi-High Court)**, the Delhi High Court held that since the escaped income of Rs. 46.17 lakhs was below the 50 lakhs threshold set by Section 149(1)(b) in the amended provisions, accordingly, the re-assessment was unsustainable due to non-fulfilment of the monetary threshold.

11. In the case of **Sri Adiparashakti Boards vs. ITO in ITA No. 1131/Hyd/2024** vide order dated 03.04.2025 the ITAT Hyderabad held that since the actual income escaping assessment was below Rs. 50,00,000/-, the Assessing Officer lacked proper jurisdiction to reopen the assessment.

12. In the result, we are of the considered view that the notice issued by the Assessing Officer under Section 148A of the Act was barred by limitation and hence, the appeal of the assessee succeeds.

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

This Order pronounced in Open Court on	18/06/2025
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Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Ahmedabad; Dated 18/06/2025

TANMAY, Sr. PS

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आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad