

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "C": NEW DELHI  
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER  
AND  
SHRI SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No. 3031/Del/2025  
(Assessment Year: 2013-14)

ACIT, Central Circle-19, Delhi	Vs.	M/s. JKM Infra Projects Ltd, Sector-9, Noida Maharishinagar, Maharishi Nagar, SO Gautam Budh Nagar, UP 201304
(Appellant)		(Respondent)
		<b>PAN: AABCJ3577H</b>

CO 132/Del/2025  
(In ITA No. 3031/Del/2025)  
(Assessment Year: 2013-14)

M/s. JKM Infra Projects Ltd, Sector-9, Noida Maharishinagar, Maharishi Nagar, SO Gautam Budh Nagar, UP 201304	Vs.	ACIT, Central Circle-19, Delhi
(Appellant)		(Respondent)
<b>PAN: AABCJ3577H</b>		

Assessee by :	Shri Ved Jain, Adv Shri Pawan Garg, CA Ms. Ishika Dua, CA
Revenue by:	Shri Om Prakash, Sr. DR
Date of Hearing	11/09/2025
Date of pronouncement	30/09/2025

O R D E R

**PER M. BALAGANESH, A. M.:**

1. The appeal in ITA No. 3031/Del/2025 filed by the revenue and CO 132/Del/2025 filed by the assessee for AY 2013-14, arise out of the order of the Commissioner of Income Tax (Appeals)-27, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. CIT (A), Delhi -

27/10219/2012-13 dated 28.02.2025 against the order of assessment passed u/s 147 r.w.s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 28.12.2017 by the Assessing Officer, ACIT, Circle-19, New Delhi (hereinafter referred to as 'ld. AO').

2. The Ground No. 11 raised by the assessee in its Cross Objections was stated to be not pressed by the Learned AR at the time of hearing. The same is reckoned as a statement made from the Bar and accordingly the Ground No. 11 raised by the assessee is hereby dismissed as not pressed.

3. We find that the assessee vide Ground No. 3 of its Cross Objections had raised a legal ground challenging the validity of assumption of jurisdiction under section 147 of the Act on the ground that Learned AO did not have any books of accounts, evidence or other documents in his possession which reveal that that income of the assessee had escaped assessment and such income is represented in the form of asset as required under section 149(1)(b) of the Act and hence the notice issued under section 148 of the Act is barred by limitation. This issue goes to the root of the matter and hence is taken up first for adjudication.

4. We have heard the rival submissions and perused the materials available on record. The assessee had filed its original return of income for the assessment year 2013-14 on 30-09-2013 declaring total income of Rs. 27,38,23,720/-. On the basis of specific information received through Insight portal uploaded by DDIT (Inv.) 1, Ghaziabad on 12-03-2021 in respect of the assessee, the learned AO proceeded to reopen the case of the assessee on the allegation that assessee had made purchases from Bansal traders and the said purchases are not genuine in view of the fact that though Bansal traders had filed return of income, it had shown

meagre income there on. The information also revealed that Bansal traders proprietor Shri Dharmendra Kumar Bansal was not traceable at the available address despite efforts taken by the Income Tax Department to serve the summons on him. Accordingly, it was concluded that Bansal traders was not involved in doing any genuine business and hence the purchases made by the assessee herein in the sum of Rs. 99,99,900/- from Bansal traders is nothing but accommodation entry warranting disallowance in the hands of the assessee. For this purpose, the assessment was sought to be reopened in the hands of the assessee. The reassessment stood completed in the hands of the assessee under section 147 read with section 143(3) of the Act on 22-05-2023 disallowing the purchases made from Bansal traders in the sum of Rs. 99,99,900/-. The Learned CITA sustained the addition only to Rs 8,00,000/- being the profit element embedded in the value of such disputed purchases.

5. We find that the provisions of Section 149 of the Act had been amended with effect from 1-4-2021. As per the amended provisions of Section 149(1) of the Act applicable from 1-4-2021, an assessment after 1-4-21 can be reopened after 3 years only when the assessing officer has information in his possession which reveal that the income chargeable to tax represented in the form of an asset which has escaped assessment amounts to or is likely to amount to Rs 50 lakhs or more for that year. We find that the term "asset" is defined in the Explanation to Section 149 of the Act which reads as under:-

*"For the purpose of clause b of this subsection, "asset" shall include immovable property being land or building or both, shares and securities, loans and advances, deposits in bank account.*

6. Thus for an assessment to be reopened after a period of 3 years, not only the income exceeding Rs 50 lakhs should have escaped

assessment, but it should also be represented in the form of an 'asset' within the meaning of the Explanation to Section 149(1)(b) of the Act. In the instant case, the learned AO had recorded reasons for reopening the assessment to disallow only the expenses in the form of purchases made from Bansal traders treating it as ingenuine. The same is not represented in the form of an 'asset'. Hence the assessment cannot be reopened after 3 years. It is not in dispute that the notice under Section 148 of the Act was issued on 23-04-2021 which is beyond 3 years from assessment year 2013-14. It was accordingly submitted that the notice under Section 148 of the Act dated 23-04-2021 is barred by limitation.

7. We find that the issue in dispute is no longer res integra in view of the decision of the Hon'ble Jurisdictional High Court in the case of Smart Chip Private Limited vs ACIT reported in 476 ITR 389 (Del) dated 23-04-2025. The relevant facts and operative portion of the said order are reproduced hereunder:-

*"1. The petitioner has filed the present petition, inter alia, impugning a notice dated 21.03.2024 [impugned notice] issued under Section 148 of the Income Tax Act, 1961 [Act] and the reassessment proceedings conducted pursuant to the impugned notice. It is the petitioner's case that the impugned notice is barred by limitation and therefore, the reassessment proceedings initiated are without jurisdiction.*

**Reasons & Conclusion**

*7. At the outset, it is relevant to refer the relevant extract of Section 149 of the Act, as was in force at the material time. The same is set out below:*

*"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:*

***Provided that*** no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if a notice under section 148 or section 153A or section 153C could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of this section or section 153A or section 153C, as the case may be, as they stood immediately before the commencement of the Finance Act, 2021:

***Provided further*** that the provisions of this sub-section shall not apply in a case, where a notice under section 153A, or section 153C read with section 153A, is required to be issued in relation to a search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, on or before the 31st day of March, 2021:"

8. A plain reading of the first proviso to Section 149(1) of the Act indicates that the issuance of a notice under Section 148 of the Act is proscribed if a notice under Sections 148, 153A or 153C of the Act could not have been issued at that time on account of the time limit specified under Clause (b) of Section 149(1) of the Act, or under Section 153A or Section 153C, as in force at that time.
9. We also consider it apposite to refer to the following observations made by the Supreme Court in *Union of India v. Rajeev Bansal*: 2024 SCC OnLine SC 2693/[2024] 167 taxmann.com 70/301 Taxman 238/469 ITR 46 (SC):

"49. The first proviso to Section 149(1)(b) requires the determination of whether the time limit prescribed under section 149(1)(b) of the old regime continues to exist for the assessment year 2021-2022 and before. Resultantly, a notice under Section 148 of the new regime cannot be issued if the period of six years from the end of the relevant assessment year has expired at the time of issuance of the notice. This also ensures that the new time limit of ten years prescribed under section 149(1)(b) of the new regime applies prospectively. For example, for the assessment year 2012-2013, the ten year period would have

*expired on 31 March 2023, while the six year period expired on 31 March 2019. Without the proviso to Section 149(1)(b) of the new regime, the Revenue could have had the power to reopen assessments for the year 2012-2013 if the escaped assessment amounted to Rupees fifty lakhs or more. The proviso limits the retrospective operation of Section 149(1)(b) to protect the interests of the assesses.*

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*54. The proviso to Section 149(1)(b) of the new regime uses the expression "beyond the time limit specified under the provisions of clause (b) of sub section (1) of this section, as they stood immediately before the commencement of the Finance Act, 2021." Thus, the proviso specifically refers to the time limits specified under section 149(1)(b) of the old regime. The Revenue accepts that without application of Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, the time limit for issuance of reassessment notices after 1 April 2021 expires for assessment years 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018 in the following manner:*

*(i) for the assessment years 2013-2014 and 2014-2015, the six year period expires on 31 March 2020 and 31 March 2021 respectively; and*

*(ii) for the assessment years 2016-2017 and 2017-2018, the three year period expires on 31 March 2020 and 31 March 2021 respectively."*

*(Emphasis supplied)*

**10.** *The aforesaid observations in Rajeev Bansal (supra) were made in the context of time limits for issuing notice under Section 148 of the Act under the provisions as were in force prior to 31.03.2021, as imputed by virtue of the first proviso to Section 149(1) of the Act. This principle would be equally applicable for proscribing the issuance of a notice under Section 148 of the Act, if the proceedings for reassessment could not be initiated under the provisions of Section 153A or 153C of the Act, or under Section 153A or Section 153C of the Act as referred to in the first proviso to Section 149(1) of the Act. There is no cavil that the impugned notice would be unsustainable if such a notice could not be issued under the provision of Section 153A of the Act as was applicable in respect of a search conducted prior to 31.03.2021. It thus requires us to determine the period of limitation within which a notice under Section 153A could be issued in respect of AY 2016-17.*

**11.** *It is the petitioner's case that the time limit for issuance of such notice is confined to the six assessment years preceding the assessment year relevant to the previous year in which search was conducted. However, the Revenue contends that by virtue of Explanation 1 to Section 153A(1) of the Act, the Revenue can travel back ten years from the end of the assessment year relevant to the previous year in which the search under Section 132 was conducted or a requisition under Section*

132A of the Act was made. Plainly, the said controversy is required to be addressed by referring to Section 153A of the Act. Section 153A(1) of the Act is set out below:

*"153A. Assessment in case of search or requisition.- (1) Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, in the case of a person where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003 [but on or before the 31st day of March, 2021], the Assessing Officer shall—*

- (a) issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years and for the relevant assessment year or years referred to in clause (b), in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139;*
- (b) assess or reassess the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made and of the relevant assessment year or years:*

***Provided that*** the Assessing Officer shall assess or reassess the total income in respect of each assessment year falling within such six assessment years and for the relevant assessment year or years:

***Provided further*** that assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years and for the relevant assessment year or years referred to in this subsection pending on the date of initiation of the search under section 132 or making of requisition under section 132A, as the case may be, shall abate:

***Provided also*** that the Central Government may by rules made by it and published in the Official Gazette (except in cases where any assessment or reassessment has abated under the second proviso), specify the class or classes of cases in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and for the relevant assessment year or years:

***Provided also*** that no notice for assessment or reassessment shall be issued by the Assessing Officer for the relevant assessment year or years unless—

- (a) the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income, represented in the*

*form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in the relevant assessment year or in aggregate in the relevant assessment years;*

- (b) the income referred to in clause (a) or part thereof has escaped assessment for such year or years; and*
- (c) the search under section 132 is initiated or requisition under section 132A is made on or after the 1st day of April, 2017.*

*Explanation 1.—For the purposes of this sub-section, the expression "relevant assessment year" shall mean an assessment year preceding the assessment year relevant to the previous year in which search is conducted or requisition is made which falls beyond six assessment years but not later than ten assessment years from the end of the assessment year relevant to the previous year in which search is conducted or requisition is made.*

***Explanation 2.—For the purposes of the fourth proviso, "asset" shall include immovable property being land or building or both, shares and securities, loans and advances, deposits in bank account."***

*12. It is apparent from the above that Section 153A of the Act refers to time periods within which the assessments could be reopened. In terms of Section 153A(1) of the Act, the assessments can be reopened for a block of six years preceding the assessment year relevant to the previous year in which search under Section 132 of the Act is conducted or requisition is made under Section 132A of the Act as well as the relevant assessment year or years.*

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*15. Mr. Maratha's contention that the extended period of limitation under Section 153A of the Act would be applicable for the purpose of the proviso to Section 149(1) of the Act notwithstanding that the conditions, as stipulated in the fourth proviso to Section 153A of the Act are not satisfied, is unmerited. Once, we accept that a notice under Section 148 of the Act cannot be issued if such a notice could not be issued under Section 153A of the Act; it would be necessary to determine the period of limitation for issuance of a notice under Section 153A of the Act. Since a block of six assessment years and a further period not exceeding the block of ten assessment years is contemplated under Section 153A of the Act, it follows that it would be necessary to determine whether the extended period of ten years is applicable in the facts of the present case. This necessitates considering the reasons as recorded for issuance of the impugned notice. The relevant extract of the reasons for reopening the reassessment, as furnished to the petitioner, is set out below:*

***"2.1 Information:-***

*In the case, the search proceedings and post-search investigations of Idemia India and other group entities revealed that these entities are engaged in massive profit shifting outside India. It has been unearthed that Idemia India and its group entities have deployed various mechanisms through which it is shifting profit to their Associated Enterprises (AEs) especially Idemia France SAS and Idemia Germany GmBH.*

*Investigation have revealed various tax-avoiding arrangements operated by the group entities like export sales made to AEs at very low markup, import purchases made from AEs at unjustified markup, management fees paid to AEs without any actual services received, Purchase of RAW materials from AEs, R&D services provided to AEs at low mark-up, transaction with Non- Filers etc. A summary of the modus operandi is as under:*

**A. Expenses Debit to Non- Filers:**

*It was observed that Smart Chip Pvt Ltd had undertaken various transactions in the nature of contract, rent, professional charges with various parties who have not either never filed the ITR or not filed in the year in which transaction occurred. The details of transactions are tabulated below:*

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*In this regard, summons notices were issued to the above non-filers to verify the genuineness of the transactions by investigation wing. However, no response has been received from the parties till date. In the absence of any compliance by the party and in view of the fact that above parties are non-filer till date, the genuineness of contract/rent payments made by Smart Chip could not be verified.*

*In view of the above, assessc's income aggregating ₹4,46,21,363/- has escaped assessment by way of various transactions during the FY 2015-16 to FY 2020-21 in the nature of contract, rent, professional charges with various parties who have not either never filed the ITR or not filed in the year in which transaction. Hence the genuineness of expenses of ₹4,46,21,363/- with non-filers from FY 2015-16 to 2020-21 needs to be verified.*

**B. DISALLOWANCE OF PERSONAL EXPENSES**

*It is noticed that during the course of search proceedings, some incriminating evidences were seized from the premises of Mr. Matthew David Foxton (34, Jor Bagh, New Delhi-110003) annexurized as Annexure A-2 in Premise TDR-9, wherein some instances of personal expenses of the*

*key persons of Smart Chip Pvt. Ltd. were claimed in the books of accounts of Smart Chip.*

*The incriminating evidences found are discussed as under:*

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*On perusal of the above, it can be noted that gold items worth Rs.2,42,646/were being purchased in FY 2015-16. Further, it can be noticed that Smart Chip has been regularly incurring expenses for the personal benefit of directors and key managerial personnel for example purchase of iPhones, Sarees, Perfume, Hotel bills, credit card payments, etc. Further, it has also been observed that the company is also regularly incurring expenses for alcohols for officers, IPL tickets for bank officials, travel bills of government officers for availing favours from them. These expenses incurred to illegally obtain undue favours are in infraction of law and cannot be allowed as deduction. Furthermore, such personal expenses cannot also be said to have been incurred wholly and exclusively for the purpose of business and needs to be examined.*

***C. Disallowance of expenses paid to VIHAAN INFRA SYSTEMS LTD.***

*It is noticed that some incriminating evidences were seized from the premises of Mr. Matthew David Foxton (34, Jor Bagh, New Delhi-110003) annexurized as A-2 in Premise TDR-9, wherein some instances of unduly routing of money to Vihaan Infrsystems Ltd. in the garb of contractual manpower services and other support services and the said expense cost was being claimed in the books of the Smart Chip. The extracts of incriminating evidences as found during the course of search are discussed as under:*

*On perusal of the above observations as noted from the Memo of KPMG Paris seized during the course of search, Vihaan Infrsystems Ltd. provided significant manpower services to Smart Chip along with other support services such as data management, training, IT services, business support rent etc. In this regard, the details of expenses incurred and paid by Smart Chip to Vihaan Infrsystems Ltd. in FY 2015-16 relevant to AY 2016-17 amounting to Rs.8,70,00,000 /-.*

*Various incriminating facts were noted from perusal of the seized memo which raised significant doubts over the genuineness of the payments made by Smart Chip to Vihaan Infrsystems Ltd.:*

- *Smart Chip is the major contributor to the total revenue of Vihaan Infrsystems Ltd. and in some financial years, the expenses paid by Smart Chip to Vihaan Infrsystems Ltd. even exceeded the total revenue*

*of Vihaan Infrsystems Ltd.;*

- *Mr. Sanjeev Shriya, his family members and Mr. Alok Mukherjee were shareholders and key managerial persons of Vihaan Infrsystems Ltd. in the past years and can be said to have significant influence over the affairs of Vihaan Infrsystems Ltd. and thus, it can be observed that Vihaan Infrsystems Ltd. was used to book non-genuine expenses in the books of Smart Chip and divert money for the benefit of specific persons;*
- *Common address, website of Vihaan Infrsystems Ltd. and Smart Chip and other group companies;*
- *Vihaan Infrsystems Ltd. presented as a group company / related company of Idemia Group entities;*
- *Mr. Sanjeev Kumar Jain, holding substantial shares in Vihaan Infrsystems Ltd., was the former employee of Smart Chip and having close relationship/connivance with Mr. Sanjeev Shriya;*
- *The fees charged by Vihaan Infrsystems Ltd. was much higher as compared to other contractual manpower company;*
- *No proper documentation and proof of service existed in respect of expense transactions with Vihaan Infrsystems Ltd.*
- *Discrepancies in employee's attendance record found which further establishes the non-receipt of any actual services and non-genuineness of the transaction with Vihaan Infrsystems Ltd.*

*Further, the above observations in the seized Memo were also corroborated with detailed analysis in the Memo including list of shareholders as on 31.03.2016, Sanjeev Kumar Jain profile, extracts of Memorandum of Association of Vihaan Infrsystems Ltd. signed in 2004, Archived version of Vihaan Infrsystems Ltd. website, LinkedIn profile of Vihaan Infrsystems Ltd., consent form signed by Smart Chip's landlord providing permission to Vihaan Infrsystems Ltd. to use their office space and Vihaan noted as related party, links of Vihaan Infrsystems Ltd. with Aadharshila and Smart Chip, related party disclosures in the other companies of Mr. Sanjeev Shriya (Goldrock Investment) showing Vihaan Infrsystems Ltd. as related party in its Annual report for FY 20 16-17, domain name verification of Vihaan Infrsystems Ltd. wherein Smart Chip shown as registrant organization, proofs that Smart Chip's address noted as address of Vihaan Infrsystems Ltd. on Government's website, MCA etc,*

*analysis of invoices raised by Vihaan Infrsystems Ltd., physical verification of premises of Vihaan Infrsystems Ltd., and various other analysis.*

*All the above incriminating evidences clearly showed that Vihaan Infrsystems Ltd. was merely a conduit entity which was used to unduly transfer money from Smart Chip and book non-genuine expenses in the books of Smart Chip. The evidences establishes that no genuine services were provided by Vihaan Infrsystems Ltd. to Smart Chip. This finding is in fact based on the internal report prepared by Idemia Group with the help of KPMG Paris. Hence, the payments made by Smart Chip to Vihaan Infrsystems Ltd. are found to be non-genuine and nowhere wholly and exclusively related to the business of the Smart Chip.*

*Thus, in view of the above, it is clearly corroborated that Smart Chip has been regularly making payments to Vihaan Infrsystems Limited without any actual receipt of any services and thus, claim of expenses of Rs.8,70,00,000/-cannot be said to be wholly and exclusively incurred for the purpose of business during the FY 20 15-16 relevant to AY 2016-17 and treated as escaped assessment and needs to be examined.*

*As discussed above, assessee's income of Rs.9.21 Crores by way of expenses debited to non -filers and personal expenses & payment made to Vihaan Infrsystems Limited for F.Y. 2015-16 relevant to A.Y. 2016-17 in the head of business expenses has escaped assessment and needs to be examined.*

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*2. Evidently, warrant was issued in the name of the assessee and the case of the assessee was covered under Search u/s 132 of the Income Tax Act 1961 on 21.03.2023.*

*3. Hence, in light of the provisions of Explanation-2 to Section 148 and first proviso to Section 148A, I am satisfied that I have 'information' which suggests that income chargeable to tax has escaped assessment in the case of the assessee for the year under consideration and it is a fit case to issue notice u/s 148 r.w.s 149 r.w.s 151(ii) of the Income Tax Act 1961 as amended by the Finance Act 2022.*

*4. In view of the above, the assessee has misrepresented the amount of Rs.9.21 Crores [Rs.0.49 Crore expenses debited to non-filers + Rs.0.024 Crores as personal expenses + Rs.8.70 Crores as expenses debited to Vihaan Infrsystems Ltd. represented in the form of an entry and expenditure] in its ITR filed for F. Y. 201516 relevant to A. Y. 2016-17 by way of various tax-avoiding arrangements and shifting profits to their Associated Enterprises (AEs) outside India. Therefore, as specified u/s 149(l)(b) of the Income-tax Act, 1961 read*

*with explanation thereto which suggests that income exceeding Rs.50 lakh chargeable to tax has escaped assessment in this case which is represented in the form of an entry and expenditure."*

**16.** *It is apparent from the above that the AO believed that the petitioner's income had escaped assessment for AY 2016-17 on essentially three grounds. First, that the petitioner had deducted expenses relating to amounts paid to certain persons who had not filed their income tax returns and the AO thus doubted the genuineness of the said transactions. Second, that the petitioner had booked expenses, which according to the AO, were personal expenses of its directors and had not been incurred wholly and exclusively for the purpose of the petitioner's business. And third, that the petitioner had paid certain amounts as expenses for availing contractual manpower services and the AO doubted the genuineness of the said payments.*

**17.** *It is clear from the above that there is no allegation that the income which has escaped assessment was represented in the form of an asset. Therefore, the conditions as stipulated in Clause (a) of the fourth proviso to Section 153A(1) of the Act are not satisfied. The AO does not have the possession any books of account, other documents or evidence, which reveals that the petitioner's income that is represented in the form of an asset has escaped assessment.*

**18.** *In terms of Explanation 2 to Section 153A(1) of the Act, the term 'asset' is defined to include immovable property being land or building or both, shares and securities, loans and advances, deposits in bank accounts.*

**19.** *The AO seeks to disallow expenses on account of doubting the genuineness for the reason that the same were not incurred wholly or exclusively for the purpose of the petitioner's business. Absent any further material to establish that such expenses had resulted in the acquisition of any asset, the conditions stipulated in the fourth proviso to Section 153A(1) of the Act would remain unsatisfied.*

**20.** *In the aforesaid view the period of limitation for issuing a notice under Section 153A of the Act, in the given facts of this case, would necessarily have to be confined to a period of six assessment years immediately preceding the assessment year relevant to the previous year in which the search under Section 132 of the Act was conducted.*

**21.** *The search in question was conducted in financial year 2022-23; thus, the relevant block of six assessment years would be the six assessment years preceding AY 2023-24, being the assessment year relevant to the previous year in which the search was conducted. Accordingly, AY 2016-17 falls beyond the block of six years.*

*22. In view of the above, the impugned notice as well as the proceedings initiated pursuant thereto are set aside. The petition is allowed in the aforesaid terms. Pending applications also stand disposed of.”*

8. It is relevant to note that the term “asset” as defined in the 4th proviso to section 153A and in Explanation to section 149(1)(b) as it stood at the relevant point of time for the year under consideration were one and the same. We find that from 1-4-2021, the provisions of section 149(1)(b) is amended wherein income escaping assessment amounting to Rs 50 lakhs or more should be represented in the form of an asset, expenditure in respect of a transaction or in relation to an event or occasion or an entry or entries in the books of account. This amendment is to be construed only prospective in nature in the light of the decision of Hon’ble Delhi High Court referred supra. Accordingly, the Learned AO contemplating to disallow the purchases from Bansal traders in the sum of Rs 99,99,900/- had satisfied the first condition of section 149 of the Act that it represents income escaping assessment. But the second condition prescribed thereon that such escaped income should be represented in the form of an asset is not satisfied herein as disallowance of expenditure cannot be construed as being represented in the form of an asset.

9. In view of the aforesaid observations and in the light of aforesaid decision of Hon’ble Delhi High Court, it could be safely concluded that the reopening in the instant case made after 3 years cannot be made and accordingly the notice issued under section 148 of the Act dated 23-4-2021 is barred by limitation. Consequentially, the reassessment proceedings are hereby quashed. Accordingly, the Ground No. 3 raised by the assessee in its Cross Objection is allowed.

10. Since the entire reassessment is quashed, the other grounds raised by the assessee in its Cross Objection both on law and on facts except Ground No. 11 and grounds raised by the revenue need not be gone into and they are left open.

11. In the result, the appeal of the revenue is dismissed and Cross Objection of the assessee is partly allowed.

Order pronounced in the open court on 30/09/2025.

-Sd/-  
**(SUDHIR KUMAR)**  
**JUDICIAL MEMBER**

-Sd/-  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated:30/09/2025  
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

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