

21-05-2026
ct no. 10
Sl. 13
RP

WPA 10084 of 2026
Shivam Dealcom Private Limited
-Versus-

The Joint Commissioner of Income Tax, (In-Situ) Central
Circle -1 (4), Kolkata and Ors.

Mr. Avra Mazumder,
Ms. Alisha Das,
Ms. Rupomita Ghosh,
Mr. Debdut Banerjee

...for the petitioner

Mr. Taraknath Jaiswal,
Mr. Madhu Jana,
Mr. Wahed Jana

...for the respondent (in WPA 10050 of 2026)

1. The petitioner in the instant case challenges, inter alia, the legality, validity and the sustainability of the show-cause notice dated 25th November 2025 for the assessment year 2015-16 issued under Section 148A(b) of the Income Tax Act, 1961 (hereinafter referred to as the Said Act) along with notices issued under Section 148A (d) and 148 dated 29th January, 2026.
2. The petitioner in the instant case submits that the show-cause notice has been wrongly issued under Section 148A(b) of the said Act since there has been an amendment to that effect from 01.09.2024.
3. The notice issued under Section 148 of the said Act for the relevant Assessment Year is barred by limitation in view of the amendment to Section 149 of the said Act with effect from 01.09.2024.

4. Learned Counsel for the petitioner submits that the order passed under Section 148A(d) of the said Act has been wrongly passed due to non-consideration of the amendment which has come into force with effect from 01.09.2024 and all consequential orders from the date of amendment shall be governed by the provision as amended and passed under Section 148A of the said Act.
5. It is submitted that the Hon'ble Apex Court in the case of ***The Income Tax Officer & Anr. vs Sri Sai Kumar Mateti*** reported in **2026 (5) TMI 855** considering the earlier judgment of the Hon'ble Apex Court i.e. ***Union of India & Ors. vs. Rajeev Bansal*** reported in **2024 (10) TMI 264 Supreme Court (LB)** has categorically observed in paragraphs 5, 6 & 7 of the said judgment which is reproduced below:-

"5. There is no quarrel that if the instant case are found to pertain to Assessment Year 2015-16, then the impugned notices are liable to be struck down outrightly in terms of the concession on behalf of the Department recorded in paragraph 19(1) of Rajeev Bansal (supra) and reiterated before us by the learned Additional Solicitor General of India.

6. However, if it is found that these cases pertain to an assessment year other than 2015-16, the respondent-assessees shall be entitled to raise all the contentions that have been permitted by the Court vide order dated 10.04.2026. Ordered accordingly.

7. Consequently, keeping in mind the reasons set out in order dated 10.04.2026, the impugned judgment in each appeal is set aside and the instant appeals are disposed of by remitting the matters to the jurisdictional High Courts for redetermination of the issues. As observed above, the High Courts shall firstly determine whether the matters pertain to Assessment Year 2015-16. If it is found to be so, no further adjudicatory exercise shall be required to be undertaken by the High Court, except to declare the

notices as being time-barred in light of Rajeev Bansal (Supra). However, if it is found that the case does not pertain to Assessment Year 2015-16, then all the issues shall be resolved in terms of the order dated 10.04.2026 passed in Civil Appeal No. 4716 of 2026.”

6. Per contra, Learned Counsel appearing for the respondent authorities submits that the issue involved herein emanates from a survey that has been conducted on 27th March, 2024 and the amendment has come into effect from 01.09.2024. Since the survey has been conducted prior to the amendment the judgment of Nitin Agrawal of the Hon’ble Apex Court is not applicable in the instant case.
7. The petitioner submits that after the amendment of Section 149 with effect from 01.09.2024, the notice under Section 148 shall not be issued for the relevant Assessment Year if three years have elapsed from the end of the relevant Assessment Year unless the case falls under Clause (b) of Section 149(1) of the said Act.
8. For Assessment year 2015-16 the three years period expired on 31.03.2019. The petitioner contends that the extended period of 10 years under Clause (b) is not attracted as there is no allegation or material to show that income escaping assessment amounts to or is likely to amount to Rs. 50,00,000/- or more.
9. In this context the respondent authorities vehemently opposes the same and submits that

since the survey has been conducted prior to the enactment, notices under Section 148 could be issued for the relevant Assessment Year if three years but not more than ten years have elapsed from the end of the relevant Assessment Year as per the pre amended provision of Section 149.

10. The petitioner contends that the time limit for the issuance of notice prior to the enactment ended on 31st March, 2022 for the Assessment Year 2015-16, being six years from the end of the relevant assessment year under the unamended Section 149(1) (b) of the said Act.

11. Having heard the parties upon considering the materials available on records I am of the considered view that the issue of the validity of reassessment proceedings, including determination of the applicability for Assessment Year 2015-16 are no longer res integra as it has been observed in paragraph 5, 6 and 7 of the judgment of the Hon'ble Apex Court in the case of the Income Tax Officer and Anr Vs. Sai Kumar Mateti wherein it has been observed categorically that after amendment with effect from 01.09.2024 all reassessment proceeding must conform to the amended provisions of Section 149 of the said Act. Notices issued beyond the time limit prescribed under Section 149(1)(a) are without

jurisdiction unless the conditions under Section 149(a) Clause (b) are satisfied.

12. In the present case, the impugned notice under section 148 for Assessment Year 2015-16 has been issued beyond three years from the end of the relevant Assessment Year and there is no material on record to demonstrate that income escaping assessment amounts to or is likely to amount to Rs. 50,00,000/- or more as required under Section 149(1)(b).
13. With the above observation and direction this Court does not wish to interfere further. In light of the judgment in the case of Income Tax Officer Vs Shri Sai Kumar Metati (Supra) the Writ Petition No. 10084 of 2026 is accordingly disposed of and the impugned proceedings initiated by issuing Show Cause Notice dated 25.11.2025 and the Order dated 29.01.2026 passed under Section 148A(d) and the Notice dated 29.01.2026 issued under Section 148 of the said Act for the Assessment Year 2015-16 are hereby quashed and set aside.
14. Since affidavits have not been filed the allegation made in the Writ Petition shall be deemed to have been denied and not admitted.

(Smita Das De, J.)