

IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, JAIPUR
(PHYSICAL HEARING)

**Before: Shri T.R. Senthil Kumar, Judicial Member
And Shri Prakash, Accountant Member**

**ITA No: 1529/JPR/2025
Assessment Year: 2019-20**

Piyush Maheshwari 1395-A, Near Kota Blood Bank Basant Vihar, Kota PAN: ALOPM0662K (Appellant)	Vs	Assessment Unit, Income Tax Department, New Delhi (Respondent)
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**Assessee Represented: Sh. Mukesh Soni &
Sapan Jain, Adv.**

Revenue Represented: Ms. Namita Patel, JCIT

Date of hearing : 22-09-2026
Date of pronouncement : 08-10-2026

आदेश/ORDER

PER : PRAKASH, ACCOUNTANT MEMBER:-

1. This appeal by the Assessee is directed against the order of the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as "the learned CIT(A)"] dated 31.08.2025 arising out of the assessment order dated 23.01.2025 passed by the Assessing Officer (hereinafter referred to as "the AO") under section 147 read with section 144B of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for the assessment year 2019-20.

2. The grounds of appeal raised by the Assessee before us in the memorandum of appeal in Form No. 36 read as under:

“1. Under the given facts and circumstances of the case and in law, impugned order dated 31.08.2025 passed by the Learned Commissioner of Income Tax (Appeals) [hereinafter referred to as “CIT(A)” u/s 250 of the Income Tax Act, 1961 “The Act”] is perverse, arbitrary and bad in law.

2. Under the facts and circumstances of the case and in law, the Ld. CIT(A) erred in upholding the action of the Ld. AO in reopening the assessment u/s 147 of the Act.

3. Under the facts and circumstances of the case and in law, the impugned notice u/s 148 of the Act dated 12.04.2023 is perverse, arbitrary and bad in law.

4. Under the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in upholding that the consequential assessment proceedings initiated by the Ld. AO u/s 147 of the Act without following the due procedure of the law.

5. Under the facts and circumstances of the case, the Ld. CIT(A) erred in confirming the disallowance of deduction of Rs. 2,50,000/- u/s 80GGC of the Act.

6. Under the facts and circumstances of the case, the Ld. CIT(A) erred in

a. upholding the action of the Ld. AO, which is based on uncontroverted, vague and forwarded information without any cogent evidence and based on third party statements or actions having no nexus with the Appellant

b. in upholding the action of the Ld. AO without allowing an opportunity of rebuttal and cross examination of third parties whose statements were allegedly relied upon against the Appellant

7. The appellant craves leave to add, alter, amend, or withdraw any grounds of appeal at the time of hearing.

8. Under the facts and circumstances of the case the Ld. AO has erred in levying the interest u/s 234B and 234C of the Act.”

3. Briefly stated, the facts of the case are that the assessee, a salaried individual, filed his return of income for the year under consideration on 29.07.2019 declaring a total income of Rs 63,47,300, after claiming a deduction of Rs 2,50,000 under section 80GGC of the Act for a contribution made to Rashtriya Samajwadi Party (Secular) [hereinafter referred to as “RSP(S)”]. A search under section 132 of the Act was conducted on 07.09.2022 on a group of 23 Registered Unrecognised Political Parties of Ahmedabad, including RSP(S). On the basis of

- information flagged on the Insight Portal on 27.03.2023 under the Risk Management Strategy of the CBDT, the AO issued a show cause notice under section 148A(b) of the Act on 30.03.2023. After considering the reply of the assessee dated 06.04.2023, the AO passed an order under section 148A(d) of the Act and issued a notice under section 148 of the Act, both on 12.04.2023. The assessee filed his return in response on 11.05.2023.
4. In the reassessment, the AO held, on the basis of the material gathered in the search, that RSP(S) received donations through banking channels and returned them to the donors, mainly in cash, after retaining a commission. Although the AO accepted that the donation was made through proper banking channels and that RSP(S) continued to be a registered political party, the AO held the donation to be bogus, disallowed the deduction of Rs 2,50,000 and determined the total income at Rs 65,97,300 by order dated 23.01.2025. The learned CIT(A) upheld the reopening and confirmed the disallowance.
 5. The learned Authorized Representative (hereinafter referred to as “the learned AR”) contended that the reassessment is barred by limitation. For the assessment year 2019-20, the period of three years under section 149(1)(a) of the Act expired on 31.03.2023, and the extended period under section 149(1)(b) of the Act is not available, as the income alleged to have escaped is only Rs 2,50,000. The information on which the AO acted emanated admittedly from the search conducted on 07.09.2022 in the case of a third party. Such a case is excluded from section 148A of the Act by its first proviso. The AO nevertheless issued a show cause notice under section 148A(b) of the Act on 30.03.2023, and then relied on the time allowed for the reply to issue the notice under section 148 of the Act on 12.04.2023. A procedure that the statute excludes cannot be used to

- enlarge the period of limitation. Reliance was placed on ***Amit Pahuja v. DCIT [2026] 187 taxmann.com 961 (Mumbai - Trib.)***. Without prejudice, it was argued that the approval under section 151 of the Act was granted by the wrong authority and that the notice was not issued in the manner required by section 151A of the Act. On merits, the learned AR submitted that the contribution was made by bank transfer to a registered political party and that no material specific to the assessee was brought on record.
6. The learned Departmental Representative (hereinafter referred to as “the learned DR”) submitted that the plea of limitation was raised for the first time before the Tribunal, though it was fairly accepted that a pure question of law arising from the facts on record may be raised, following ***National Thermal Power Co. Ltd. v. CIT [1998] 229 ITR 383 (SC)***. It was argued that the information was flagged in the case of the assessee under the Risk Management Strategy of the CBDT and is therefore information within the meaning of Explanation 1 to section 148 of the Act, as also recorded in the approval under section 151 of the Act dated 11.04.2023. It was further argued that the first proviso to section 148A of the Act operates only to relieve the AO from following the procedure, and that an AO who nonetheless follows it does not lose jurisdiction. The assessee, who participated in the proceedings under section 148A of the Act and filed a return in response to the notice under section 148 of the Act without objection, suffered no prejudice. On merits, the learned DR relied on the decisions of the Ahmedabad Bench in ***Pavan Anil Bakeri v. DCIT [2022] 142 taxmann.com 574 (Ahmedabad - Trib.)***, ***Rajen Jayantilal Merchant v. Assessment Unit [2025] 180 taxmann.com 568 (Ahmedabad - Trib.)*** and ***Mahesh Upendra Majithia v. DCIT (ITA No.***

620/Ahd/2026), and on extracts of the appraisal report prepared in the case of RSP(S).

7. We have heard the rival contentions and perused the material available on record. The plea of limitation goes to the root of the jurisdiction of the AO. It arises from facts which are not in dispute and which are fully on record. The learned DR has fairly accepted that such a plea may be raised for the first time before the Tribunal. We therefore admit it and take it up first. Participation by the assessee in the proceedings cannot confer a jurisdiction which the statute does not give.
8. The relevant dates are not in dispute and are as under:

Event	Date
End of the assessment year 2019-20	31.03.2020
Search under section 132 of the Act on the RUPP group, including RSP(S)	07.09.2022
Information flagged on the Insight Portal	27.03.2023
Expiry of three years under section 149(1)(a) of the Act	31.03.2023
Show cause notice under section 148A(b) of the Act; reply filed on 06.04.2023	30.03.2023
Order under section 148A(d) and notice under section 148 of the Act	12.04.2023

9. Section 149(1) of the Act, as it stood when the notice was issued, reads as under:

“(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.”

The income alleged to have escaped is Rs 2,50,000. Clause (b) is therefore not attracted, and the notice had to be issued within three years from the end of the assessment year, that is, by 31.03.2023. The notice was issued on 12.04.2023. It can survive only if the period between 30.03.2023 and 12.04.2023 is excluded under the provisos to section 149(1) of the Act. Those provisos exclude the time allowed to the assessee in a show cause notice issued under section 148A(b) of the Act, and extend the remaining period to seven days where it falls short. The Revenue's case on limitation thus rests entirely on the proceedings under section 148A of the Act.

10. The first proviso to section 148A of the Act provides that the section shall not apply in four classes of cases. Clauses (b) and (c) cover cases where the AO is satisfied, with the prior approval of the Principal Commissioner or Commissioner, that any money or asset, or any books of account or documents, seized in a search under section 132 of the Act in the case of any other person on or after 01.04.2021 belong to, or relate to, the assessee. Clause (c) reads as under:

“(c) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any books of account or documents, seized in a search under section 132 or requisitioned under section 132A, in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee;”

In the classes of cases covered by the proviso, no show cause notice under section 148A(b) of the Act is contemplated. It follows that in such

cases there is no time allowed to the assessee under such a notice that can be excluded under the provisos to section 149(1) of the Act.

11. The source of the information in the present case is beyond doubt. The AO has recorded in the very first paragraph of the assessment order as under:

“The information has been received on the basis of the search u/s 132 of the Act, in the case of RUPPs group of Ahmadabad on 07.09.2022.”

“Thereafter, on the basis of bank account statements of these RUPPs, beneficiaries/donors who had availed accommodation entries in from of the bogus donation made to these RUPPs have been identified.”

The disallowance itself rests on the material found in that search, and the learned DR has supported it before us with extracts of the appraisal report prepared in the case of RSP(S). The information that the assessee had made a donation to RSP(S) was thus information contained in, or derived from, the books and documents of a third party gathered in a search conducted after 01.04.2021. That is precisely the class of case covered by clause (c) of the first proviso to section 148A of the Act. The satisfaction and approval mentioned in that clause are the conditions on which the AO is to proceed in such a case. The omission of the AO to record them cannot take the case out of the class to which it plainly belongs, and cannot be turned to the advantage of the Revenue on the question of limitation.

12. The contention of the learned DR that the information is information under the Risk Management Strategy does not alter this position. The Insight Portal is the channel through which the information reached the AO. It does not change the source or character of the information, which, on the AO's own record, is the third party search. Nor can the procedure under section 148A of the Act be treated as a mere additional

opportunity given to the assessee. When the statute excludes a procedure, following it anyway cannot produce a consequence which the statute attaches only to that procedure, namely the exclusion of time for computing limitation. To hold otherwise would allow the Revenue to choose its route according to the time left on the clock. Limitation is a matter of jurisdiction, and the absence of prejudice to the assessee cannot cure it.

13. This view is consistent with the decisions of coordinate Benches on facts that are, for all practical purposes, identical. The Revenue cannot derive any advantage from the proceedings under section 148A of the Act when the statute itself excludes them, and that an action not contemplated by the Act cannot confer jurisdiction on the AO.
14. The decisions relied on by the learned DR were rendered on the merits of the disallowance and no question of limitation under the present scheme arose. None of these decisions, therefore, answers the question before us.
15. Respectfully following the decision in ***Amit Pahuja (supra)***, we hold that the notice under section 148 of the Act dated 12.04.2023 was issued after the expiry of the period of limitation under section 149(1) of the Act. The notice, and the reassessment order dated 23.01.2025 founded on it, are without jurisdiction and are quashed. Grounds no. 2, 3 and 4 are allowed.
16. As the reassessment has been quashed, the grounds on the merits of the disallowance under section 80GGC of the Act (grounds no. 5 and 6) and the remaining legal contentions regarding the approval under section 151 of the Act and compliance with section 151A of the Act have become academic. They are left open. Ground no. 8, relating to interest under

sections 234B and 234C of the Act, does not survive. Ground no. 1 is general in nature, and ground no. 7 does not call for any adjudication.

17. In the result, **the appeal filed by the Assessee is allowed.**

Order pronounced in the open court on 08-10-2026
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Sd/-

(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

Sd/-

(PRAKASH)
ACCOUNTANT MEMBER

Dated 08/10/2026

**Ganesh Kr., Sr. PS*

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT
6. Guard file.

By order/आदेश से,

सहायक पंजीकार
आयकर अपीलीय अधिकरण, जयपुर