

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.125/PUN/2026
निर्धारण वर्ष / Assessment Year : 2013-14

Vikasratna Vilasrao Deshmukh Manjara Shetkari Sah Sakhar Karkhana Limited, Vilas Nagar, Latur-413531 PAN : AAAAM1527D	Vs.	ITO, Ward-1, Nanded
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Girish Ladda
Department by :	Shri Amit Bobde
Date of hearing :	30-03-2026
Date of Pronouncement :	06-05-2026

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 11.11.2025 of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi ["CIT(A)/NFAC"] pertaining to Assessment Year ("AY") 2013-14.

2. Briefly stated the facts of the case are that the assessee is a Co-operative Society. For AY 2013-14, the assessee filed its return of income u/s 139(1) of the Income Tax Act, 1961 (the "Act") on 30.09.2013 declaring total income of Rs.28,63,09,080/-. The case of the assessee was reopened u/s 147 of the Act vide order u/s 148A(d) of the Act dated 26.07.2022 on the ground that "*the assessee AOP deposited cash amounting to Rs.23,31,73,000/- in its bank account. In absence of documentary evidence the amount of transaction of Rs.23,31,73,000/- remain unexplained and has escaped assessment*". Thereafter, notice u/s 148 of the Act dated 26.07.2022 was issued and served upon the assessee through ITBA portal. In response thereto, the assessee filed its return of income on 20.01.2023 declaring total income of Rs.28,63,09,080/-. Statutory notice(s) u/s 143(2) and 142(1) of the Act were accordingly issued and served upon assessee through ITBA portal from time to time, in response to which the assessee submitted its reply. However, the show cause notice(s) issued on 17.05.2023 and 21.05.2023 to the assessee

remained un-complied with. Due to non availability of satisfactory explanation/documentary evidences from the assessee regarding the cash deposits of Rs.23,31,73,000/-, the Ld. Assessing Officer (“AO”) added the same to the total income of the assessee for AY 2013-14 as unexplained money u/s 69A of the Act and completed the assessment determining the total income of the assessee at Rs.51,94,82,080/- vide order dated 29.05.2023 passed u/s 147 r.w.s. 144B of the Act.

3. Before the Ld. CIT(A)/NFAC, the assessee apart from challenging the addition on merit also challenged the validity of reopening of the assessment. The Ld. CIT(A)/NFAC upheld the addition made by the Ld. AO and dismissed the appeal of the assessee. So far as legal ground No. 1 and 2 raised by the assessee, the Ld. CIT(A)/NFAC dismissed the same by observing as under:

“1. On the facts and in the circumstances of the case as well as by law the ld. AO erred in initiating the provisions u/s. 148 of the Act, because the submission made in response to the notice u/s. 148A(b) dated 24/05/2022 has not been considered carefully, properly and applied his mind to conclude that, the provisions of section 147 are applicable and the Order U/s 148 was issued. Therefore, the proceeding initiated u/s. 147 is against the provisions of law, hence the order passed by the ld. AO is bad in law.

The aversons of the appellant are not substantiated and hence baseless. These are liable to be dismissed as the AO has duly applied his mind before issuance of notice to the appellant.

2. On the facts and in the circumstances of the case, the Order u/s 148A(d) was passed without issuing the notice u/s 148A(b) for the quantum cash deposit of Rs. 23,31,73,000/-. The original notice dated 24/05/2022 issued u/s 148A(b) was for Rs. 52,73,000/-. Therefore, in view of the fact that no valid notice was issued; the entire Assessment proceedings needs to be quashed and order making additions should be quashed

It is necessary to quote the provisions of section 148A which are to be followed before issue of notice/s 148. The same are reproduced as below:

Conducting inquiry, providing opportunity before issue of notice under 148A.

148A. The Assessing Officer shall, before issuing any notice under section 148A –

(a) conduct any enquiry, if required, with the prior approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment;

*(b) provide an opportunity of being heard to the assessee, 23[***] by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a);*

(c) consider the reply of assessee furnished, if any, in response to the showcause notice referred to in clause (b);

(d) decide, on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under section 148, by passing an order, with the prior approval of specified authority, within one month from the end of the month in which the reply referred to in clause (c) is received by him, or where no such reply is furnished, within one month from the end of the month in which time or extended time allowed to furnish a reply as per clause (b) expires:

Provided that the provisions of this section shall not apply in a case where,

(a) a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A in the case of the assessee on or after the 1st day of April, 2021; or

(b) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any money, bullion, jewellery or other valuable article or thing, seized in a search under section 132 or requisitioned under section 132A, in the case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or

(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, to, the assessee; or

(d) the Assessing Officer has received any information under the scheme notified under 24[relate section 135A pertaining to income chargeable to tax escaping assessment for any assessment year in the case of the assessee.]

Explanation.—For the purposes of this section, specified authority means the specified authority referred to in section 151.]

Thus it is amply clear that the word used in the above provision is ‘suggest’ which means information with the AO which would suggest escapement of income and this would not mean that the exact amount has to be quantified which can only be done after due scrutiny of the case by the AO. The contentions of the appellant assessee are not found valid, hence dismissed.”

4. So far as, the ground relating to addition made by Ld. AO on account of unexplained money u/s 69A of the Act, the Ld. CIT(A)/NFAC considering the provision of section 69A and section 115BBE and relying on various case laws on the subject dismissed this ground raised by the assessee by observing as under:

“6.2 The appellant assessee was accorded sufficient and ample opportunity to explain the source of cash deposit in his bank account. Considering the entirety of facts, circumstances and material on record and looking into preponderance of probabilities here the appellant has miserably failed to substantiate its claim of the deposits made regarding the total amount of cash deposits of Rs.23,31,73,000/- treated as unexplained money and has also not even been able to establish that he could himself accumulate such amount from the sources disclosed, therefore, the AO was fully justified in

making/confirming the addition the amount of Rs.23,31,73,000/- found as unexplained money of the appellant as per the provision of section 69A of the Income Tax Act, 1961 and taxed as per provision of section 115BBE. In this condition, the addition made by AO are factually and legally correct are upheld and the plea of the appellant on this issue are dismissed being devoid of any merits.”

5. Aggrieved, the assessee is in appeal before the Tribunal raising the following grounds of appeal:

“1. Invalid order under section 148A(d)-change of reasons

On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in upholding the reassessment proceedings, despite the fact that the notice issued under section 148A(b) dated 24.05.2022 alleged cash deposits of ₹52,73,000, whereas the order passed under section 148A(d) dated 26.07.2022 proceeded on an entirely different and new allegation of cash deposits 23,31,73,000, without The order under section 148A(d), being passed on grounds never put to the appellant, is void ab initio, violative of principles of natural justice, and bad in law. of issuing any fresh show-cause notice

2. Reopening based on non-existent and incorrect facts

On the facts and in the circumstances of the case and in law, the learned CIT(A) failed to appreciate that the reopening of assessment on the allegation of cash deposits of 23,31,73,000 is based on factually incorrect and non-existent material, as the appellant has not deposited any such cash in any bank account during the relevant previous year, and factually total cumulative cash deposits in all bank accounts was Rs 42,36,370 only which was categorically explained in response to notice under section 148A(b).

3. Notice under section 148 barred by limitation

On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in not holding that the notice issued under section 148 dated 26.07.2022 is barred by limitation, as laid down by the Hon'ble Supreme Court in Union of India v. Rajeev Bansal (340 CTR 865). The notice under the old regime having been issued on 14.06.2021, only 16 days of limitation survived (15.06.2021 to 30.06.2021). The appellant filed its reply to notice under section 148A(b) on 09.06.2022, and therefore the Assessing Officer could have issued a valid notice under section 148 only on or before 25.06.2022, whereas the impugned notice was issued on 26.07.2022, rendering it time-barred and void.

4. Assumption of Jurisdiction U/s 147 void ab initio

The learned CIT(A) erred in law in confirming the reassessment despite the fact that the Assessing Officer neither rebutted the detailed reply filed by the appellant nor specified the bank namets or account number(s) in which the alleged cash deposit of 23,31,73,000 was made, rendering the assumption of jurisdiction u/s 147 arbitrary, mechanical and unsustainable in law.

5. Entire reassessment proceedings are void ab initio and without jurisdiction

On the facts and in the circumstances of the case and in law, it may please be held that entire reassessment proceedings and consequent order u/s 147 are void ab initio, patently illegal and bait in law for multiple reasons, therefore the same may please be quashed.

6. Violation of section 151A-jurisdictional defect

On the facts and in law, the learned CIT(A) erred in upholding the notice issued under section 148 dated 26.07.2022 by the Jurisdictional Assessing

Officer in violation of section 151A and the notified faceless reassessment scheme mandating such notice must be issued by FAQ, rendering the entire reassessment proceedings without jurisdiction and invalid.

7. Addition under section 69A without existence of actual cash deposits

On the facts and in the circumstances of the case, the learned CIT(A) erred in confirming the addition of ₹23,31,73,000 under section 69A, even though:

- o the appellant categorically demonstrated that no such cash deposits were made,*
- o the total cash deposits during the year were only 42,36,070, duly recorded in the audited cash book and supported by bank statements, and*
- o the existence of "unexplained money" itself was not established by the Assessing Officer.*

8. General

The appellant craves leave to add, alter, amend or withdraw any ground of appeal at or before the time of hearing."

6. Although, multiple legal grounds are raised by the assessee, the Ld. AR confined his arguments to ground No. 3 challenging the notice issued u/s 148 of the Act on the ground that the said notice is barred by limitation, as laid down by the Hon'ble Supreme Court in UOI Vs Rajeev Bansal (340 CTR 865). The Ld. AR submitted that the notice u/s 148 of the Act is beyond the permissible time hence bad in law. The Ld. AR filed written submissions in support thereof, the relevant paragraph of which is reproduced here under:

1) GROUND No. 3 Notice U/s 148 barred by limitation (Covered by Rajeev Bansal)

1.1 In the present case, the notice u/s 148 under the old regime was issued on 14th June 2021 (attached at Page number 1 in paper Book), leaving a surviving period of 17 days for the final due date as per TOLA. A notice under Section 148A(b) was subsequently issued on 24th May 2022 (attached at Page 2-3 in paper Book), and the assessee filed a reply on 9th June 2022 (Copy at Page 4-7 of PB). As held by Apex Court in Rajeev Bansal, the time between the issue of original notice u/s 148 under the old regime and the time upto 30.06.2021 is the time limit available which needs to be added to the date on which the reply of the assessee was received. The Hon'ble Supreme Court has referred to this time limit as the surviving time limit available. Applying the same principle as laid down by Hon'ble Supreme Court, the Assessing Officer should have issued notice u/s 148 by 27.06.2022 (09th June 2022 +17 days). However, the Assessing Officer has issued notice u/s 148 on 26.07.2022. Therefore, the notice issued u/s 148 in the new regime is barred by the limitation. These time limits with facts are summarized in the table as below

Sr No	Particulars	Page Number in PB	Dates
1	Due date for issue of Notice as per TOLA		30-06-2021
2	Notice u/s 148 issued under Old Law	1-1	14-06-2021
3	No. Of Days of Surviving Time Available till 30.06.2021 (1-2)		17 days (14/06/21 to 30/06/21)
4	Date of Notice u/s 148A(b) issued by ITO Ward 1 Nanded as per Supreme Court decision in Ashish Agrawal	2-3	24-05-2022
5	Date of reply filed by assessee in response to Notice U/s 148A(b)	4-7	09-06-2022
6	Last Date to issue Notice u/s 148 in new regime as per surviving time as directed by Hon'ble the Supreme Court in the Rajeev Bansal Case (3+5)		27-06-2022 (17 days from 09-06-2022)
7	Date of Notice u/s 148 issued by JAO	11-12	26-07-2022

1.2 The Appellant relies on **following direct decisions** on same Facts

- a) DCIT Vs. Kolte Patil Integrated Township Ltd., ITANo.2011/PUN/2024 **PUNE ITAT**
- b) Usman Jainuddin Shaikh ITA 2353/PUN/2025 **PUNE ITAT** decision dated 05/03/2026
- c) Hon **Bombay High Court** Hitesh Ramniklal Shah Vs. ACIT 180 taxmann.com 642
- d) Hon **Delhi High Court** in the case of Manisha Agarwal Shah Vs. ACIT [2025] 179 taxmann.com 656
- e) Hon Apex Court UOI Vs Rajeev Bansal 167 Taxmann.com 70

Relying on the law laid down by Hon Apex Court in Rajeev Bansal, as also Jurisdictional Bombay HC and PUNE ITAT, the appellant prays that reopening may please be quashed.

7. The Ld. DR supported the order of the Ld. CIT(A)/NFAC and the Ld. AO, however, he did not make any contrary submission on the issue of surviving period argued by the Ld. AR.

8. We have heard the Ld. Representatives of the parties and perused the material available on record as well as the paper book filed by the Ld. AR on behalf of the assessee. We have also perused the judicial precedents cited by the Ld. AR. The case of the assessee is that the Ld. AO had initially issued notice u/s 148 on 14.06.2021 (page 1 of the paper book refers). Thereafter, in view of the decision of Hon'ble Supreme Court in the case of Ashish Agarwal (2022) 138 taxmann.com 64 (SC), the Ld. AO issued notice u/s 148A(b) on 24.05.2022 (Page 2 and 3 of the paper book refers). The assessee filed its reply in response to notice u/s 148A(b) on 09.06.2022 (page 4 to 7 of paper book refers). Hence, the Ld. AO could have issued a valid notice u/s 148 of the Act in new regime as per surviving time as directed by the Hon'ble Supreme Court in Rajeevs Bansal's case on or before 27.06.2022. However, order u/s 148A(d) was passed on 26.07.2022 (page 8-10 of the paper book refers) and the impugned notice u/s 148 of the Act was issued by JAO on 26.07.2022 (page 11-12 of the paper book refers) rendering such notice time barred and void.

9. We find that the Hon'ble Supreme Court in the case of Rajeev Bansal (supra) at Para 108 to 112 of its order has held that any notice issued beyond the surviving time limit is invalid in law. The Hon'ble Supreme Court has held that the effect of the creation of the legal fiction in the case of Ashish Agrawal (supra) is that it stops the clock of limitation with effect from date of issuance of notice u/s 148 under the old regime. In Para 112 of its order, the Hon'ble Supreme Court has given an example as under:

“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 notices 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”.

10. It is thus abundantly clear from the above that the time between the issue of original notice u/s 148 under the old regime and the time up to 30.06.2021 (i.e. due date of issue of notice as per TOLA) is the time limit available which needs to be added to the date on which the reply of the

assessee was received. The Hon'ble Supreme Court has referred to this time limit as the surviving time limit available.

11. Now applying the same principle as laid down by the Hon'ble Supreme Court in Rajeev Bansal case (supra) to the instant case the Ld. AO should have issued notice u/s 148 of the Act by 27.06.2022 for AY 2013-14 as only 17 days of limitation survived (14.06.2021 to 30.06.2021). However, the Ld. AO/JAO has issued notice u/s 148 of the Act subsequently on 26.07.2022 and therefore, in our view, the notice u/s 148 in the new regime for AY 2013-14 is barred by limitation.

12. The Ld. AR has further placed reliance on the decision of the Hon'ble Bombay High Court in the case of Hitesh Ramniklal Shah Vs. ACIT 180 taxmann.com 642. We find that the Hon'ble Bombay High Court under the similar set of fact as that of the assessee in the present case, has held as under:

"20. We have heard the learned Counsel for the parties. We have also perused the papers and proceedings in the above Writ Petition. In view of the controversy involved, it is necessary to refer to the judgment of the Hon'ble Supreme Court in Rajeev Bansal (supra) which held as under:-

"...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....

.....105. A direction issued by this Court in the exercise of its jurisdiction under Article 142 is an order of a court. The third proviso to Section 149 of the new regime provides that the period during which the proceedings under section 148A are stayed by an order or injunction of any court shall be excluded for computation of limitation. During the period from the date of issuance of the deemed notice under section 148A(b) and the date of the decision of this Court in Ashish Agarwal (supra), the assessing officers were deemed to have been prohibited from passing a reassessment order. Resultantly, the show cause notices were deemed to have been stayed by order of this Court from the date of their issuance (somewhere from 1 April 2021 till 30 June 2021) till the date of decision in Ashish Agarwal (supra), that is, 4 May 2022

106. In Ashish Agarwal (supra), this Court directed the assessing officers to provide relevant information and materials relied upon by

the Revenue to the assesses within thirty days from the date of the judgment. A show cause notice is effectively issued in terms of Section 148A(b) only if it is supplied along with the relevant information and material by the assessing officer. Due to the legal fiction, the assessing officers were deemed to have been inhibited from acting in pursuance of the Section 148A(b) notice till the relevant material was supplied to the assesses. Therefore, the show cause notices were deemed to have been stayed until the assessing officers provided the relevant information or material to the assesses in terms of the direction issued in *Ashish Agarwal (supra)*. To summarize, the combined effect of the legal fiction and the directions issued by this Court in *Ashish Agarwal (supra)* is that the show cause notices that were deemed to have been issued during the period between 1 April 2021 and 30 June 2021 were stayed till the date of supply of the relevant information and material by the assessing officer to the assessee. After the supply of the relevant material and information to the assessee, time begins to run for the assesses to respond to the show cause notices.

107. The third proviso to Section 149 allows the exclusion of time allowed for the assesses to respond to the show cause notice under section 149A(b) to compute the period of limitation. The third proviso excludes "the time or extended time allowed to the assessee." Resultantly, the entire time allowed to the assessee to respond to the show cause notice has to be excluded for computing the period of limitation. In *Ashish Agarwal (supra)*, this Court provided two weeks to the assesses to reply to the show cause notices. This period of two weeks is also liable to be excluded from the computation of limitation given the third proviso to Section 149. Hence, the total time that is excluded for computation of limitation for the deemed notices is: (i) the time during which the show cause notices were effectively stayed, that is, from the date of issuance of the deemed notice between 1 April 2021 and 30 June 2021 till the supply of relevant information or material by the assessing officers to the assesses in terms of the directions in *Ashish Agarwal (supra)*; and (ii) two weeks allowed to the assesses to respond to the show cause notices

b. Interplay of Ashish Agarwal with TOLA

108. The Income-tax Act read with TOLA extended the time limit for issuing reassessment notices under section 148, which fell for completion from 20 March 2020 to 31 March 2021, till 30 June 2021. All the reassessment notices under challenge in the present appeals were issued from 1 April 2021 to 30 June 2021 under the old regime. *Ashish Agarwal (supra)* deemed these reassessment notices under the old regime as show cause notices under the new regime with effect from the date of issuance of the reassessment notices. The effect of creating the legal fiction is that this Court has to imagine as real all the consequences and incidents that will inevitably flow from the fiction. *East End Dwellings Co. Ltd. v. Finsbury Borough Council [1952] AC 109*. [Lord Asquith, in his concurring opinion, observed: "If you are bidden to treat an imaginary state of affairs as real, you must surely, unless prohibited from doing so, also imagine as real the consequences and incidents which, if the putative state of affairs had in fact existed, must inevitably have flowed from or accompanied it."] Therefore, the logical effect of the creation of the legal fiction by *Ashish Agarwal (supra)* is that the time surviving under the Income-tax Act read with TOLA will be available to the Revenue to complete the remaining proceedings in furtherance of the deemed notices, including issuance of reassessment notices under section 148 of the new regime. The surviving or balance time limit can be calculated by computing the number of days between the date of issuance of the deemed notice and 30 June 2021.

109. If this Court had not created the legal fiction and the original reassessment notices were validly issued according to the provisions of the new regime, the notices under section 148 of the new regime would have to be issued within the time limits extended by TOLA. As a corollary, the reassessment notices to be issued in pursuance of the deemed notices must also be within the time limit surviving under the Income-tax Act read with TOLA. This construction gives full effect to the legal fiction created in *Ashish Agarwal (supra)* and enables both the assesses and the Revenue to obtain the benefit of all consequences flowing from the fiction.

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 segments of this judgment, the period from the date of the issuance of the deemed notices till the supply of relevant information and material by the assessing officers to the assesses in terms of the directions 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 assesses to reply to the show cause notices must also 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 assesses to the show causes 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 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 notices 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.

113. In *Ashish Agarwal (supra)*, this Court allowed the assesses to avail all the defences, including the defence of expiry of the time limit specified under section 149(1). In the instant appeals, the reassessment notices pertain to the assessment years 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018. To assume jurisdiction to issue notices under section 148 with respect to the relevant assessment years, an assessing officer has to: (i) issue the notices within the period prescribed under section 149(1) of the new regime read with TOLA; and (ii) obtain the previous approval of the authority specified under section 151. A notice issued without complying with the preconditions is invalid as it affects the jurisdiction of the assessing officer. Therefore, the reassessment notices issued under section 148 of the new regime, which are in pursuance of the deemed notices, ought to be issued within the time limit surviving

under the Income-tax Act read with TOLA. A reassessment notice issued beyond the surviving time limit will be time- barred..."

(emphasis supplied)

21. Subsequently several High Courts have considered the judgment in *Rajeev Bansal* while dealing with the issue of the surviving period. The Delhi High Court in *Ram Balaram Buildhome (P.) Ltd (supra)* while considering the issue held as under:-

"...65. Thus, in the facts of the present case, the last date for issuance of notice under Section 148 of the Act for AY 2013-14 under the statutory framework, as was existing prior to 01.04.2021 was 31.03.2020, that is, six years from the end of the relevant assessment year.

*66. By virtue of Section 3(1) of TOLA time for completion of specified acts, which fell during the period 20.03.2020 to 31.12.2020 were extended till 30.06.2021. Thus, the notice dated 01.06.2021 was issued twenty-nine days prior to the expiry of period of limitation for issuing a notice under Section 148 of the Act as was extended by TOLA. As noted above, the period from 01.06.2021, the date of issuance of notice, and 04.05.2022, being the date of decision of the Supreme Court in *Ashish Agarwal (supra)* is required to be excluded by virtue of the third proviso to Section 149(1) of the Act.*

*67. Additionally, the period from the date of decision in *Ashish Agarwal (supra)* till the date of providing material, as required to the accompanied with a notice under Section 148A(b) of the Act, is required to be excluded. Thus, the period between 04.05.2022 to 30.05.2022, the date on which the AO had issued the notice under Section 148A(b) of the Act in furtherance of his earlier notice dated 01.06.2021, is also required to be excluded by virtue of the third proviso to Section 149(1) of the Act as held by the Supreme Court in *Rajeev Bansal (supra)*.*

68. In addition to the above, the time granted to the petitioner to respond to the notice dated 30.05.2022 - the period of two weeks -is also required to be excluded by virtue of the third proviso to Section 149(1) of the Act. The petitioner had furnished its response to the notice under Section 148A(b) of the Act on 13.06.2022. Thus, the period of limitation began running from that date.

69. As noted above, by virtue of TOLA, the AO had period of twenty-nine days limitation left on the date of commencement of the reassessment proceedings, which began on 01.06.2021, to issue a notice under Section 148 of the Act. The said notice was required to be accompanied by an order under Section 148A(d) of the Act. Thus, the AO was required to pass an order under Section 148A(d) of the Act within the said twenty-nine days notwithstanding the time stipulated under Section 148A(d) of the Act. This period expired on 12.07.2022.

70. Since the period of limitation, as provided under Section 149(1) of the Act, had expired prior to issuance of the impugned notice on 30.07.2022. The said is squarely beyond the period of limitation..."

22. The Gujarat High Court in *Dhanraj Govindram Kella (supra)* while considering the issue held as under:-

"...65. The alternative contention of the petitioner as to whether notices would be valid notice or invalid notice considering 'surviving time' between the date of the issuance of notices under TOLA and 30 th June, 2021 or not is required to be considered and for that each matter has to be considered separately on the basis of the facts of case considering the date of issuance of notices under section 148 under TOLA by the Revenue and thereafter date of supplying information to the assessee and date of passing of order under

section 148A(d) and date of issuance of notice under section 148 of the Act so as to consider whether issuance of notice under section 148 of the Act is within 'surviving time' as per the direction of Hon'ble Apex Court in case of Rajeev Bansal (supra) or not.

66. So far as Assessment Years 2013-2014 and 2014-2015 are concerned, the period of three years from the end of the assessment year would be over prior to 20.03.2020 and the period of six years would be over between 20.03.2020 and 30.06.2021. Therefore, the notices issued under section 148 of the Act under old regime between 01.04.2021 and 30.06.2021 as per TOLA, will be a valid notice if the notice under section 148 of the Act under new regime is issued within the period of 'surviving time' as per the directions issued by Hon'ble Apex Court in case of Rajeev Bansal (supra). For the Assessment Years 2016-2017 and 2017-2018 are concerned, the notice issued under section 148 of the Act under old regime between 01.04.2021 and 30.06.2021 under TOLA would be considered to be issued within three years from the end of the relevant assessment year as three years would complete within the period of 20.03.2020 and 30.06.2021.

67. Therefore, in facts of these petitions, following data is required to be considered to find out 'surviving time' to decide as to whether the impugned notices under section 148 of the Act issued under the new regime as per the decision of Hon'ble Apex Court in case of Ashish Agarwal (supra) would be valid notice or not in view of the decision of the Hon'ble Apex Court in case of Rajeev Bansal (supra):

SCA NO	AY	Date of notice under section 148 TOLA	Date of surviving time available till 30.06.2021	No of days of providing information under section 148A(b)	Date of
6387/2023	2013-	17.06.2021	30.06.2021	13	26.05.2022
5688/2023	2014-	09.06.2021	30.06.2021	21	23.05.2022
22260/2022	2016-	30.06.2021	30.06.2021	1	23.05.2022
996/2023	2017-	30.06.2021	30.06.2021	1	24.05.2022

SCA NO	Due date of filing reply:-	Date of reply:-	Date of order under section 148A(d) and notice under section 148:-	Date of issuance under section 148 as per surviving time:-	Last date for notice under section 148
6387/2023	09.06.2022	04.06.2022	04.06.2022	29.07.2022	22.06.2022
5688/2023	06.06.2022	-	-	27.07.2022	27.06.2022
22260/2022	07.06.2022	06.07.2022	06.07.2022	30.07.2022	14.06.2022
996/2023	11.06.2022	10.06.2022	10.06.2022	19.07.2022	18.06.2022

68. It is apparent from the above details that impugned notice under section 148 of the Act is issued beyond the period of 'surviving time' as per the direction of Hon'ble Apex Court in case of Rajeev Bansal (supra) and therefore, such notices would be invalid notices..."

23. The Madras High Court in Mrs.Thulasidass Prabavathi (supra), while considering the issue held as under:-

"...17. Dealing with almost an identical situation pursuant to the decision of the Hon'ble Supreme Court in Union of India v. Rajeev Bansal, 2024 SCC OnLine SC 2693, the Delhi High Court quashed the

notice dated 31.03.2021 issued to the assessee under Section 148 of the Act and the proceedings. Since the law laid down by the Hon'ble Supreme Court in Union of India v. Rajeev Bansal, 2024 SCC OnLine SC 2693 is a settled law, it is binding on this Court. I am therefore unable to take a contra view in the light of the aforesaid decision of the Hon'ble Supreme Court in Union of India v. Rajeev Bansal, 2024 SCC OnLine SC 2693..."

24. Based on the above, we observe that a notice under Section 148 of the Act 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 relying on the first proviso to Section 149 of the Act. Hence, the submission of the Respondent that a period of ten years is available to issue the notice under Section 148 of the Act is misconceived.

25. Further, we find that the second ground was urged before this Court in the case of Gurpreet Singh (supra) where the Court records the argument of the Respondent [in paragraph 7(vii)] that the order under Section 148A(d) is to be passed within one month from the end of the month in which the reply has been received, specifically rejected the same in paragraph 18 as Section 148A(d) does not govern the computation of time as contemplated in terms of Section 149 of the Act. The said paragraph 18 is reproduced hereunder:-

"...18. The said contention is fundamentally misconceived. A notice under Section 148 of the IT Act accompanied by an order under Section 148A(d) is required to be issued within the time stipulated under Section 149 of the IT Act. Section 148A(d) does not govern the computation of time as contemplated in terms of Section 149 of the IT Act. The entire process under Section 148A(a) to (d) and the issuance of notice under Section 148 has to be completed within the total time available in terms of Section 149(1) of the IT Act for issuance of notice under Section 148. A notice issued under Section 148 of the IT Act which is beyond the time line stipulated under Section 149(1) is non-complaint and invalid. The timeline under Section 148A(d) is for the Assessing Officer to comply with the stipulations and the streamlining contemplated under Section 148A. This is primarily to bring in transparency and accountability into the system and is intended for the benefit of the assesseees. However to suggest that Section 148A(d) extends the time limit under Section 149(1) and/or has a bearing on the time under Section 149(1) is a submission which is misconceived and lacks legal sanctity."

emphasis supplied

26. After considering the above exclusion period, we observe that the remaining days for conclusion of the procedure for passing of NOVEMBER 11, 2025 Utkarsh 1.wp.4164.2025.doc an order in terms of Section 148A(d) and issuance of the notice under Section 148 of the Act would be two days. In the present case, whichever way we see it, the period of two days would expire on 10 June 2022 or 27 June 2022 respectively and, therefore, the notice under Section 148 of the Act issued on 27 July 2022 is time barred, inasmuch as it is issued much after the surviving period. We concur with the judgments of the co-ordinate bench in Gurpreet Singh (supra), of the Delhi High Court in Ram Balram Buildhome (P.) Ltd (supra) and the Gujarat High Court in Dhanraj Govindram Kalle (supra) which have dealt with the surviving period and quashed the notices issued under Section 148 of the Act passed beyond the surviving period.

27. In view of the above, it is apparent that Respondent No.1 has acted beyond jurisdiction and we accordingly set aside the impugned notice issued under Section 148 of the Act as well as all the subsequent notices issued under Section 142(1) and the show cause notice on the above ground. The other contentions raised by the Petitioner are kept open.

13. The case of the assessee also find support from the order of the Co-ordinate Bench of the Tribunal in the case of Kolte Patil Integrated Township Ltd. (supra) and Usman Jainuddin Sheikh (supra) wherein the Tribunal in turn relying on the decision of the Hon'ble Supreme Court in case of Rajeev Bansal (supra) and the Hon'ble Bombay High Court in case of Hitesh Ramniklal Shah (supra) has decided the impugned issue in favour of the assessee and quashed the assessment/reassessment proceedings holding that the notice issued u/s 148 of the Act beyond the surviving time available is invalid in law.

14. Based on the factual matrix of the case and the legal position set out above, we hold that the notice issued u/s 148 of the Act is barred by limitation and hence the reassessment proceedings are not in accordance with law and are hereby quashed.

15. Since we have already quashed the reassessment proceedings on legal ground No. 3, all other grounds raised by the assessee which are not argued by the Ld. AR, need not be adjudicated and dismissed as such.

16. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 06th May, 2026.

Sd/-
(R.K. Panda)
VICE PRESIDENT

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 06th May, 2026.
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.
//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

सहायक पंजीकार / Assistant Registrar
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune