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WP No. 21923 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-11-2025

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

**WP No. 21923 of 2022
and
W.M.P.No.20956 of 2022**

1. Swathi Sanjeevi
T-8, 6th Cross Street, Besant Nagar,
Chennai-600 090.

Petitioner(s)

Vs

1. Income Tax Officer
Non-Corp Ward 15(1), Income Tax
Department, 121, M.G.Road,
Nungambakkam, Chennai-600 034.

Respondent(s)

PRAYER

Writ Petition filed under Article 226 of the Constitution of India, praying to call for a Writ of Certiorarified Mandamus, calling for the records of the Respondent contained in its order bearing DIN and Notice No.ITBA/COM/F/17/2022-23/1044369431(1), dated 31.07.2022, passed by the Respondent under Section 148A(d) of the Income Tax Act, 1961, for PAN BXXPS3154E, for Assessment Year 2014-15 and all proceedings in furtherance thereof including but not limited to the notice bearing DIN and Document No.ITBA/AST/S/91/2022-23 /1044372309(1), dated 31.07.2022, issued by the Respondent under Section 148 of the Income Tax Act, 1961, for



PAN:BXXPS3154E, for Assessment Year 2014-15, and to quash the same as arbitrary, unjust, illegal, barred by limitation and consequently forbear the Respondent or its superiors, subordinates, agents etc. from re-assessing the Petitioner's income for the Assessment Year 2014-15 under Section 147 of the Income Tax Act, 1961.

For Petitioner(s): Mr.Suhrith Parthasarathy

For Respondent(s): Mrs.S.Premalatha
Senior Standing Counsel

ORDER

Heard Mr.Suhrith Parthasarathy, learned counsel for the Petitioner and Mrs. Premalatha, learned Senior Standing Counsel for the Respondents.

2. In this Writ Petition, the Petitioner has challenged the impugned Order dated 31.07.2022 passed under Section 148A(d) and the consequential impugned Notice dated **31.07.2022** issued under Section 148 of the Income Tax Act, 1961 under the new regime as in force with effect from 01.04.2021 for the Assessment Year 2014-2015.

3. The Petitioner, an individual had not filed the regular Return of Income by the due date under Section 139(1) of the Income Tax Act, 1961 for the Assessment Year 2014-2015.



4. A survey was conducted under Section 133(6) of the Act on 01.05.2017 pursuant to which the Petitioner had submitted replies dated 11.05.2017 and 14.10.2017.

5. The above survey led to issuance of a Notice dated 16.04.2021 under Section 148 of the Income Tax Act, 1961 for the Assessment Year 2014-2015 under the Old regime.

6. Meanwhile, the Hon'ble Supreme Court in **Union of India Vs Ashish Agarwal (2024)** SCC OnlineSC 2693 rendered its decision on 04.05.2022. Later the said decision was clarified by the Hon'ble Supreme Court in **Union Of India Vs Rajeev Bhansal 2024** SCC Online SC 2993.

7. In Paragraph No. 28 from **Ashish Agarwal case** (cited *supra*), the Hon'ble Supreme Court held as under:-

“28. In view of the above and for the reasons stated above, the present Appeals are allowed in part. The impugned common judgments and orders passed by the High Court of Judicature at Allahabad in W.T. No. 524/2021 and other allied tax appeals/petitions, is/are hereby modified and substituted as under:

(i) The impugned section 148 notices issued to the respective assesseees which were issued under unamended section 148 of the



IT Act, which were the subject matter of writ petitions before the various respective High Courts shall be deemed to have been issued under section 148A of the IT Act as substituted by the Finance Act, 2021 and construed or treated to be showcause notices in terms of section 148A(b). The assessing officer shall, within thirty days from today provide to the respective assessee information and material relied upon by the Revenue, so that the assessee can reply to the showcause notices within two weeks thereafter;

(ii) The requirement of conducting any enquiry, if required, with the prior approval of specified authority under section 148A(a) is hereby dispensed with as a onetime measure visàvis those notices which have been issued under section 148 of the unamended Act from 01.04.2021 till date, including those which have been quashed by the High Courts. Even otherwise as observed hereinabove holding any enquiry with the prior approval of specified authority is not mandatory but it is for the concerned Assessing Officers to hold any enquiry, if required;

(iii) The assessing officers shall thereafter pass orders in terms of section 148A(d) in respect of each of the concerned assessee; Thereafter after following the procedure as required under section 148A may issue notice under section 148 (as substituted);

(iv) All defences which may be available to the assessee including those available under section 149 of the IT Act and all rights and contentions which may be available to the concerned assessee and Revenue under the Finance Act, 2021 and in law shall continue to be available.

8. In the **Union of India Vs. Rajeev Bansal**, 2024 SCC Online SC 2993, the above decision of the Hon'ble Supreme Court in **Ashish Agarwal case**



(cited *supra*) was re-examined. There the Hon'ble Supreme Court framed the following questions of law/issues in Paragraph No.18. Paragraph No.18 from **Rajeev Bansal case** (cited *supra*) is reproduced below for clarity:-

“(a) Whether the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and notifications issued under it will also apply to reassessment notices issued after April 1, 2021; and

(b) Whether the reassessment notices issued under section 148 of the new regime between July and September 2022 are valid.”

9. In Paragraph No.112, the Hon'ble Supreme Court in **Rajeev Bansal case** (cited *supra*) gave the following illustration to give its ultimate conclusion in Paragraph No.114:-

“112. Let us take the instance of a notice issued on May 1, 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 May 1, 2021. After accounting for all the exclusions, the Assessing Officer will have sixty-one days (days between May 1, 2021 and June 30, 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 June 18, 2022, the Assessing Officer will have



sixty one days from June 18, 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 August 18, 2022.”

10.The conclusion in Paragraph No.114 of the Hon’ble Supreme Court in **Rajeev Bansal case** cited *supra* is reproduced below:-

“114. In view of the above discussion, we conclude that:

(a) After April 1, 2021, the Income Tax Act has to be read along with the substituted provisions;

(b) Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 will continue to apply to the Income-tax Act after April 1, 2021 if any action or proceeding specified under the substituted provisions of the Income Tax Act falls for completion between March 20,2020 and March 31, 2021;

(c) Section 3(1) of the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 overrides section 149 of the Income-tax Act only to the extent of relaxing the time limit for issuance of a reassessment notice under section 148;

(d) Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 will extend the time limit for the grant of sanction by the authority specified under section 151. The test to determine whether Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 will apply to section 151 of the new regime is this : if the time limit of three years from the end of an assessment year falls between March 20, 2020 and March 31, 2021, then the specified authority under section 151(i) has extended time till June 30, 2021 to grant approval;

(e) In the case of section 151 of the old regime, the test is : if the time limit of four years from the end of an assessment year falls



between March 20, 2020 and March 31, 2021, then the specified authority under section 151(2) has extended time till March 31, 2021 to grant approval;

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(f) The directions in Union of India Vs. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617] will extend to all the ninety thousand reassessment notices issued under the old regime during the period April 1, 2021 and June 30, 2021;

(g) The time during which the show- cause notices were deemed to be stayed is from the date of issuance of the deemed notice between April 1, 2021 and June 30, 2021 till the supply of relevant information and material by the Assessing Officers to the assesseees in terms of the directions issued by this court in Union of India Vs. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617], and the period of two weeks allowed to the assesseees to respond to the show-cause notices; and

(h) The Assessing Officers were required to issue the reassessment notice under section 148 of the new regime within the time limit surviving under the Income-tax Act read with the Taxation and other Laws (Relaxation and Amendment of Certain Provisions Act, 2020. All notices issued beyond the surviving period are time barred and liable to be set aside;”

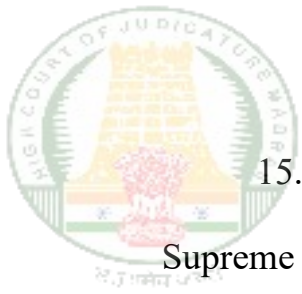
11. For computing the period of limitation, the time or the extended time allowed to an assessee and the period during which the proceedings under Section 148 were stayed by the order of the Hon'ble Supreme Court in **Ashish Agarwal case** (cited *supra*) as clarified in **Rajeev Bansal case** (cited *supra*) and as per third proviso to Section 149 of the Act are to be excluded.



12. Thus, the time during which Section 148 Notices were issued between **1st April, 2021** and **30th June, 2021** till the supply of relevant information and material by the Assessing Officers to the assesseees in terms of the directions issued by the Hon'ble Supreme Court in **Ashish Agarwal case** (cited *supra*), and a further period of two weeks allowed to the assesseees to respond to the show-cause notices as affirmed by the Hon'ble Supreme Court in **Rajeev Bansal case** (cited *supra*) were deemed have been stayed are to be excluded for computation of limitation for issuance of a Section 148 Notice under the new regime.

13. The only condition for issuance of Section 148 Notice under the new regime is that the limitation under Section 148, Section 153A or Section 153 under the old regime as in force till 31.03.2021 should not have already expired. This is as per the first proviso to Section 149 of the Act as in force with effect from **01.04.2021**.

14. The above conclusion in Paragraph No.114 of the Hon'ble Supreme Court in **Rajeev Bansal case** cited *supra* is relevant for determination of limitation for issuance of a Section 148 Notice under Section 149 of the Income Tax Act, 1961 under the new regime with effect from **01.04.2021**.



15. In terms of Paragraph No. 114(b) of the decision of the Hon'ble Supreme Court in **Rajeev Bansal** case, referred to *supra*, Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 will continue to apply to the Income-tax Act after April 1, 2021 if any action or proceeding specified under the substituted provisions of the Income Tax Act falls for completion between March 20, 2020 and March 31, 2021.

16. In Paragraph No. 50, the Hon'ble Supreme Court in **Rajeev Bansal** case observed as under:-

“50. Another important change under section 149(1)(b) of the new regime is the increase in the monetary threshold from rupees one lakh to rupees fifty lakhs. The old regime prescribed a time limit of six years from the end of the relevant assessment year if the income chargeable to tax which escaped assessment was more than rupees one lakh. In comparison, the new regime increases the time limit to ten years if the escaped assessment amounts to more than rupees fifty lakhs. This change could be summarized thus:

Regime	Time limit	Income chargeable to tax which has escaped assessment
Old regime	Four years but not more than six years	Rupees one lakh or more
New regime	Three years but not more than ten years	Rupees fifty lakhs or more



17. This under the New Regime w.e.f. 01.04.2021, the “Specified Authority” for giving of sanction under Section 151 of the Act for issuance of notice under Section 148 are as under:-

Section 151	Specified authority for Section 148 and 148A of the Act
Within three years	(i)Principal Commissioner/or (ii) Principal Director/or (iii) Commissioner/or (iv) Director
After three years	(i)Principal Chief Commissioner/or (ii)Principal Director General/or (iii)Chief Commissioner/or (iv) Director General

18. For the sake of clarity, relevant dates for the calculation of limitation under Section 149 of the Income Tax Act, 1961 for issuance of Section 148 Notice and for issuance of sanction under 151 of the Income Tax Act, 1961 are captured hereunder:-

Assessment Year	Old tax regime as in force till 31.03.2021		New tax regime with effect from 01.04.2021	
	4 years	6 years	3 years	10 years
2014-2015	31.03.2019	31.03.2021*	31.03.2018	31.03.2025
Specified authority for Section 148 and 148A of the Act	No relevant for our discussion		i)Principal Commissioner/or (ii) Principal Director/or (iii) Commissioner/or (iv) Director	i)Principal Chief Commissioner/or or (ii)Principal Director General/or (iii)Chief Commissioner/or or (iv) Director General



[Note: **However, the 6 years stood extended to **30.06.2021** in view of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA).*]

19. Following the ratio of the Hon'ble Supreme Court in Ashish Agarwalcase (referred *supra*), the Petitioner was issued with a Notice dated 18.05.2022 under Section 148A(b) of the Income Tax Act, 1961 under the new regime as in force with effect from 01.04.2021.

20. The periods of limitations prescribed under Section 149 of the Income Tax Act, 1961 for issuance of a notice under Section 148 of the Income Tax Act, 1961 are materially different under the old regime and under the new regime as in force with effect from 1.4.2012.

21. The time limit for issuance of Notice under Section 148 as per Section 149 of the Income Tax Act, 1961 under the old regime as in force till **31.03.2021** was 4/6 years. By virtue of Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA) extensions, the six year limitation for issuance of Notice under Section 148 under the old regime was extended to **30.06.2021** for the **Assessment Year 2014-2015**.

22. For the sake of clarity, Section 149 of the Income Tax Act, 1961 as in force with effect from **01.04.2021** is extracted hereunder:-



“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 asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year:

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 such notice 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, 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:

Provided also that for the purposes of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice issued under clause (b) of section 148A or the period during which the proceeding under section 148A is stayed by an order or injunction of any court, shall be excluded:



Provided also that where immediately after the exclusion of the period referred to in the immediately preceding proviso, the period of limitation available to the Assessing Officer for passing an order under clause (d) of section 148A is less than seven days, such remaining period shall be extended to seven days and the period of limitation under this sub-section shall be deemed to be extended accordingly.

Explanation.— *For the purposes of clause (b) of this sub-section, "asset" shall include immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account. (2) The provisions of sub-section (1) as to the issue of notice shall be subject to the provisions of section 151."*

23. Thus, it is evident that no notice under section 148 can be issued under the new regime for the relevant assessment years beginning on or before 1st day of April, 2021, if such a notice could not have been issued at that time on account of it being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of section 149 as it stood immediately before the commencement of the Finance Act, 2021.

24. This will be in accordance with the ratio in **Ashish Agarwal case** (cited *supra*) and **Rajeev Bansal case** (cited *supra*) and in accordance with the 1st proviso to Section 149 of the Act which reads as under:-

*“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;”

* *Amended by the Finance Act, 2022, w.r.e.f. 01.04.2021.*

25. Relevant dates for the present case are as follows:-

Assessment Year 2014-2015		
Notice/Event	Date	
Notice under Section 148 of the Act (old regime)	16.04.2021	
Ashish Agarwal case	04.05.2022	
Time granted to issue Notice under Section 148A(b) of the Act as per Ashish Agarwal case (30 days)	02.06.2022	
Notice under Section 148A(b) of the Act	18.05.2022	
Time given as per Ashish Agarwal case to Reply		14 days
Reply given by the Petitioner	27.05.2022 & 21.06.2022	
Order under Section 148A(d) of the Act (new regime)	31.07.2022	
Notice under Section 148 of the Act (new regime)	31.07.2022	

26. Under Section 149 of the Act as in force till **31.03.2021** under the old regime, the last date to issue the Notice under Section 148 of the Act for the **Assessment Year 2014-2015** was **31.03.2021**, if the income escaping assessment was above **Rs.1,00,000/-**. However, by virtue of TOLA extensions, the said period stood extended to **30.06.2021**.



27. In this case, the income that had allegedly escaped assessment for the **Assessment Year 2014-2015** was **Rs.34,14,142/-**. Thus, Section 148 Notice issued under the old regime on **16.04.2021** was within the extended period under TOLA as such the time would only expire on **31.06.2021**, as the income escaping assessment was above **Rs.1,00,000/-**. Therefore, Section 148 Notice issued on **16.04.2021** is to be held to be within the period of limitation under the new regime.

28. Applying the above ratio of the Hon'ble Supreme Court **Ashish Agarwal case** (cited *supra*) and **Rajeev Bansal case** (cited *supra*) to the facts of the case, it is clear that Section 148 Notice issued on **16.04.2021** under the old regime as it stood till **31.03.2021** therefore has to be treated as a Notice issued under Section 148A(b) of the Act.

29. The impugned Section 148A(d) Order and the impugned Section 148 Notice both dated **31.07.2022** have been passed and issued in the background of the Notice dated **18.05.2022** issued under Section 148A(b) of the Act in the light of the decision of the Hon'ble Supreme Court in **Union of India Vs. Ashish Agarwal**, (2023) 1 SCC 617.



30. For issuance of a Notice under Section 148 of the Act under the new regime as in force with effect from 01.04.2021, limitation of **3 years** or **10 years** specified in Section 149 of the Income Tax Act, 1961 is applicable.

31. However, the impugned Section 148 Notice issued on **31.07.2022** after the new regime came into effect from **01.04.2021** is time barred, as the limitation had expired on **31.03.2019** viz., being three years from the end of the **Assessment Year 2014-2015**. In fact, Section 148 Notice dated **16.04.2021** issued under the old regime as in force till **31.03.2021** is time barred after new regime came into force with effect from **01.04.2021**. Thus, the said Section 148 Notice dated **16.04.2021** issued under the old regime as in force till **31.03.2021** is to be held to still born on 01.04.2021.

32. The last date for issuing Section 148 Notice under the new regime with effect from **01.04.2021** for the **Assessment Year 2014-2015** had already expired on **31.03.2018**. Therefore, even if the time between **16.04.2021**, being the deemed date of issuance of Section 148A(b) as per the decision of **Ashish Agarwal case** (cited *supra*) and **Rajeev Bansal case** (cited *supra*) till the date of issuance of Section 148A(b) Notice dated **18.05.2022** under the new regime and the time taken for filing the reply and for passing the order under Section 148A(B are excluded for computation of limitation, the impugned Section 148



Notice dated **31.07.2022** is issued has to be held to beyond the period of limitation.

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33. Therefore, the impugned Section 148A(d) dated **31.07.2022** and the impugned Section 148 Notice dated **31.07.2022** are liable to be quashed and are accordingly quashed.

34. This Writ Petition is allowed with the above observation. No costs.
Connected Miscellaneous Petitions are closed.

03-11-2025

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Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No

To

1. Income Tax Officer
Non-Corp Ward 15(1), Income Tax
Department, 121, M.G.Road,
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