



W.P.No.23842 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2025

CORAM:

THE HONOURABLE MR. JUSTICE C.SARAVANAN

W.P.No.23842 of 2022

and

W.M.P.Nos.22825 & 22826 of 2022

Nataraja Gounder Kanakasabapathy

...Petitioner

-Vs-

The Deputy Commissioner of Income Tax,
Circle – 1, Income Tax Office,
No.3, Gandhi Road, Salem – 636 007.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorari, calling for the records of the respondent in DIN & Order No.ITBA/COM/F/17/2022-23/1044267746(1) dated 29.07.2022 for the Assessment Year 2013-14 and quash the same and pass such further orders.

For Petitioner : Mr.T.Vasudevan

For Respondent : Dr.B.Ramasamy,
Senior Standing Counsel



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ORDER

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In this Writ Petition, the Petitioner has challenged the Order dated **29.07.2022** passed by the respondent under Section 148A(d) of the Act under the regime and the Notice dated **29.07.2022** issued by the respondent under Section 148 of the Act under the new regime for the **Assessment Year 2013 - 2014**.

2. Heard Mr. T.Vasudevan, learned counsel for the Petitioner and Dr.B.Ramasamy, learned Senior Standing Counsel for the Respondents.

3. Have perused the documents and the list of dates and events *qua* Paragraph No.28 from the decision of the Hon'ble Supreme Court in **Union of India Vs. Ashish Agarwal**, (2023) 1 SCC 617 and Paragraph Nos.112 and 114 from the decision of the Hon'ble Supreme Court in **Union of India Vs. Rajeev Bansal**, 2024 SCC Online SC 2993.

4. It will therefore be useful to refer to passage from Paragraph No.28 from **Ashish Agarwal case** (cited *supra*) and Paragraph Nos.112 and 114 from **Rajeev Bansal case** (cited *supra*).



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5. For the sake of clarity, Paragraph No.28 from **Ashish Agarwal case**

(cited *supra*) is reproduced below:-

“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 show cause notices in terms of section 148A(b). The assessing officer shall, within thirty days from today provide to the respective assesseees information and material relied upon by the Revenue, so that the assesseees can reply to the show cause 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 assesseees; Thereafter after following the procedure as required under section 148A may issue notice under section 148 (as substituted);



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

6. In **Rajeev Bansal case** (cited *supra*), the above decision of the Hon’ble Supreme Court in **Ashish Agarwal case** (cited *supra*) was re-examined. 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:-

“(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.”

7. The above questions of law / issues have been answered in Paragraph No.114 and illustrated in Paragraph No.112 of **Rajeev Bansal case** (cited *supra*).

8. For the sake of clarity, Paragraph Nos.112 and 114 from **Rajeev Bansal case** (cited *supra*) are extracted hereunder:-



“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.

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



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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;

(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.”

9. Applying the above ratio, particularly, in the light of the limitation for issuance of Notice under Section 148 of the Act prescribed under Section 149 of the Act read with Section 151 of the Act, it is clear that Section 148 Notices that were issued between **1st April, 2021** under the old regime as it



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stood till **31.03.2021** are to be treated as Notices under Section 148A(b) of the Act under the new regime in terms of Paragraph No.28.1 of **Ashish Agarwal case** (cited *supra*) and in terms of Paragraph No.114(g) of **Rajeev Bansal case** (cited *supra*).

10. The time during which the Notice issued under Section 148 of the Act under the old regime as it stood till **31.03.2021** were deemed to be stayed from the date of issuance 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 **Ashish Agarwal case** (cited *supra*), and for a further period of **two weeks** for the assesseees to respond to the Show Cause Notices as confirmed by **Rajeev Bansal case** (cited *supra*) are to be excluded.

11. A new Notice under Section 148 of the Act under the new regime as in force with effect from **1st April, 2021** was required to be issued for reassessment within the time limit surviving under the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) [TOLA] Act, 2020, if the same was applicable.

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



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Assessment Year 2013-2014	
Date	Event
22.04.2021	Notice under Section 148 of the Act (old regime)
04.05.2022	Ashish Agarwal case
02.06.2022	Time granted to issue Notice under Section 148A(b) of the Act as per Ashish Agarwal case (30 days)
25.05.2022	Notice under Section 148A(b) of the Act
14 days	Time granted for the Petitioner to file a reply
(Not given)	Reply given by the Petitioner
29.07.2022	Order under Section 148A(d) of the Act (new regime)
29.07.2022	Notice under Section 148 of the Act (new regime)

13. Applying the above ratio to the facts of the case it is clear that the Notice that was issued on **22.04.2021** under Section 148 of the Act for the **Assessment Year 2013-2014** under the old regime as it stood till **31.03.2021** was to be treated as a Notice issued under Section 148A(b) of the Act under the new regime as in force with effect from **01.04.2021** in terms of **Ashish Agarwal case** (cited *supra*) and **Rajeev Bansal case** (cited *supra*).

14. In the light of the ratio in **Ashish Agarwal case** (cited *supra*) and **Rajeev Bansal case** (cited *supra*), the Notice issued under Section 148 of the Act under the old regime on **22.04.2021** is deemed to have been stayed for thirty days for the Income Tax Department to provide to the respective assessee's information and material relied upon and two weeks thereafter for the assessee's to reply to the Show Cause Notices.



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15. A Notice under Section 148 of the Act under the new regime as in force with effect from **01.04.2021** was required to be issued for reassessment within the time limit under Section 149 of the Act as in force with effect from **01.04.2021** within the surviving time under the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) [TOLA] Act, 2020.

16. 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** had already not expired. This is as per the first proviso to Section 149 of the Act as in force with effect from **01.04.2021**.

17. Section 149 of the Act under the new regime 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



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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."



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18. For the sake of clarity, relevant dates for the calculation of limitation period 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
2013-2014	31.03.2018	31.03.2020*	31.03.2017	31.03.2024

*[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. The time limit for issuance of Notice under Section 148 of the Act as per Section 149 of the Act under the new regime with effect from **01.04.2021** is 3/10 years depending upon the amount of income allegedly escaping assessment, where under the old regime it was 4/6 years depending upon the amount of income allegedly escaping assessment.

20. In the present case, since the income escaping assessment allegedly is **more than Rs.50,00,000/- viz., Rs.24,44,48,110/-** for the **Assessment Year 2013-2014**, the Notice under Section 148 of the Act under the old regime ought to have been issued on or before **31.03.2020**.

21. However, by virtue of Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA) extensions, the six



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year limitation for issuance of Notice under Section 148 under the old regime extended upto **30.06.2021** for the **Assessment Year 2013-2014**. Therefore, the Notice issued under Section 148 of the Act under the old regime on **22.04.2021** is within time.

22. Therefore, a Notice under Section 148 of the Act for reassessment under the new regime for the **Assessment Year 2013-2014**, ought to have been issued either:-

(i) on or before **31.03.2017** (within three years from the end of the Assessment Year) if the income escaping assessment was less than **Rs.50,00,000/-**; or

(ii) on or before **31.03.2024** (within ten years) if the income escaping assessment was more than **Rs.50,00,000/-**.

23. Thus, the proceedings initiated on **22.04.2021** under Section 148 of the Act under the old regime which was later substituted by a Notice under Section 148A(b) dated **25.05.2022** which has culminated in the impugned Order dated **29.07.2022** under Section 148A(d) and the impugned Notice dated **29.07.2022** issued under Section 148 are to be held to be within time.

24. Further, in the present case, the Petitioner has not filed a reply to Section 148A(b) Notice dated **25.05.2022** issued under the new regime as in



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force with effect from **01.04.2021**. In case, time was sought for and granted to the Petitioner to reply to the aforesaid Notice or fourteen days was available for assessing officer to pass an order under Section 148A(d) of the Act from the date of Section 148A(b) Notice.

25. However, as per Section 148A(d) as in force with effect from **01.04.2021** under the new regime, where no reply is furnished by an assessee to the Notice under Section 148A(b), the Assessing Officer has to issue Notice under Section 148 of the Act within one month from the end of the month in which time or extended was allowed to furnish a reply as per Section 148A(b) of the Act expired.

26. Section 148A(d) as in force with effect from **01.04.2021** under the new regime is reproduced below:-

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

(a)

(b)

(c)

(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 wherer no such reply is



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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:

27. Thus, order under Section 148A(d) and a Notice under Section 148 of the Act under the new regime was to be issued within one month from the end of June, 2022 being one month from the end of the month in which the Petitioner was granted time to furnish reply as per Section 148A(b) expires viz., 14 days (2 weeks) granted to reply to Section 148A(b) Notice which is dated **25.05.2022**. The time to reply would have expired on 09.06.2022.

28. Thus, the last date for issuance of Notice under Section 148 of the Act under the new regime expired only on **30.07.2022** being one month from the end of the month in which the Petitioner was granted time to furnish a reply as per Section 148A(b) of the Act expires. Thus, the impugned Order dated **29.07.2022** and the impugned Notice under Section 148 was issued on **29.07.2022** cannot be said to be beyond time.

29. Considering the fact that the Petitioner had not replied to the Notice dated **25.05.2022** issued under Section 148A(b) of the Act, case is remitted back to the Respondent to pass a fresh order under Section 148A(d) on merits and therefore, to issue a fresh Notice under Section 148 of the Act.



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30. Therefore, the proceedings are remitted back to the Respondent to pass a fresh order under Section 148A(d) and Section 148 Notice, subject to the Petitioner filing a reply to Section 148A(b) Notice dated **25.05.2022** within fourteen days from the date of receipt of a copy of this order.

31. If the Petitioner fails to comply with the above stipulations, this Writ Petition shall be deemed to be dismissed.

32. The time between the passing of the impugned order dated **29.07.2022** and impugned Notice under Section 148 of the Act dated **29.07.2022** till the passing of the *de novo* order shall stand excluded for computing the period of limitation for issuance of Section 148 Notice under the new regime.

33. This Writ Petition is disposed of with the above observation. No costs. Connected Writ Miscellaneous Petitions are closed.

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cda
Index : Yes/No
Speaking/Non Speaking order



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C.SARAVANAN , J.

cda

To

The Deputy Commissioner of Income Tax,
Circle – 1, Income Tax Office,
No.3, Gandhi Road, Salem – 636 007.

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