IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.24215 of 2022
and
W.M.P.Nos.23187 and 27467 of 2022

Shri Vadivelu Suresh ...Petitioner

Vs.

1. The Income Tax Officer,
Ward 1,
No.2, Barracks Cross Road,
Officer's Line
Vellore, Tamil Nadu – 632 001.

2. The Principal Commissioner of Income Tax – 8,
No.24, Uthamar Gandhi Road,
Nungambakkam,
Chennai-600 034. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the file of the 1st respondent pertaining to the issuance of notice under Section 148 of the Income Tax Act dated 11.07.2022 in PAN No:BPTPS9200P for the AY:2017-18 and quash the same.

For Petitioner : Mr.G.Ashokapathy
For M/s.Pass Associates
For Respondents : Dr.B.Ramasamy,
Senior Standing Counsel

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ORDER

This case is listed under the caption 'For Clarification' today i.e., on 25.11.2025 after the present Writ Petition was dismissed vide Order dated 17.11.2025.

2. After perusing 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, it had become necessary and imperative for to revisit the order dated 17.11.2025.

3. For a fair disposal of the case, it will be therefore 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*).

4. 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 assessees 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 assessees information and material relied upon by the Revenue, so that the assessees 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 assessees; 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 assesses including those available under section 149 of the IT Act and all rights and contentions which may be available to the concerned assessees and Revenue under the Finance Act, 2021 and in law shall continue to be available.**"*

5. 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."

6. 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*).

7. 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 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 assessees 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 assessees 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."*

8. Applying the above ratio, particularly, in the light of the limitation for issuance of Notice under Section 148 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') prescribed under Section 149 of the Act read with Section 151 of the Act it is clear that the Section 148 Notices that was issued between **1st April, 2021** till **31.03.2021** under the old regime as it stood are to be treated as a Notice 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*).

9. The time during which the aforesaid Notices issued between **April 1, 2021** and **June 30, 2021** under Section 148 of the Act under the old regime as it stood till **31.03.2021** were deemed to be stayed for a period of thirty days from 04.05.2022 being the date of the decision of the Hon'ble Supreme Court in **Ashish Agarwal case** (cited *supra*) for the supply of relevant information and material by the Assessing Officers to the assessees and for a further period of **two weeks** for the assessees to respond to the said Notice.

10. 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.

11. Applying the above ratio to the facts of the case it is clear that the Notice that was issued on **23.06.2021** under Section 148 of the Act for the Assessment Year 2017-2018 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*).

12. In the present case, since the income escaping assessment allegedly is **less than Rs.50,00,000/-** viz., **Rs.40,78,902/-** for the **Assessment Year 2017-2018.** Therefore, a Notice under Section 148 of the Act ought to have been issued on or before **31.03.2021**. However, by virtue of TOLA extensions, the said period stood extended up to **30.06.2021**.

13. In case, where time was sought for to reply and was granted to an assessee to reply to the aforesaid Notice, fourteen days was to be computed by by after excluding the time granted for said reply under the new regime for issuance of a Section 148 of the Act.

14. However, in the present case, the Petitioner has not filed reply to Section 148A(b) Notice dated **27.05.2022** issued under the new regime as in force with effect from **01.04.2021.**

15. As per Section 148A(d) of the Act 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.

16. Clause (d) to Section 148A of the Act as in force with effect from 01.04.2021 udner 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 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****".*

17. 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 **27.05.2022**. The time to reply would have expired on 10.06.2022.

18. Since Section 148 Notice dated 23.06.2021 issued under the old regime was issued just seven days before the expiry of limitation on 30.06.2021, only seven days would have avilable till 30.06.2021 for issuance of Section 148 Notice under the new regime with effect from 01.04.2021 after excluding the period of thirty ddays and fourteen days time period granted by the Hon'ble Supreme Court in Ashish Agarwal case (cited supra).

19. After excluding the time as per the decision of the Hon'ble Supreme Court in Ashish Agarwal case (cited supra) and adding seven more days in terms of the fourth Proviso to Section 149 of the Act as amended with effect from 01.04.2021, fourteen days would have been available for issuance of Section

148 Notice. This is evident from the illustration in Paragraph No.112 of Rajeev Bansal case (cited supra).

20. Relevant dates in the present case are as follows:-

Assessment Year 2017-2018	
Notice / Event	**Date**
Notice under Section 148 of the Act (old regime)	**23.06.2021**
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	**27.05.2022**
Time given for reply to Notice under Section 148A(b)	10.06.2022
Reply given by the Petitioner	**Not given**
Time for issuance of under Section 148A(d) of the Act	30.07.2022

(New regime)	
Impugned Order passed under Section 148A(d) of the Act (new regime)	11.07.2022
Impugned Notice passed under Section 148 of the Act (new regime)	**11.07.2022**

21. 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 reply as per Section 148A(b) of the Act expires. Thus, the impugned Order under Section 148A(d) dated 11.07.2022 and the impugned Notice under Section 148 was issued on **11.07.2022** cannot be said to be beyond time.

22. The proceedings initiated on **23.06.2021** under Section 148 of the Act under the old regime which was later substituted by a Notice under Section 148A(b) dated **27.05.2022** which has culminated in the impugned Order dated

11.07.2022 under Section 148A(d) and the impugned Notice dated **11.07.2022** issued under Section 148 are to be held to be within time.

23. Considering the fact that the Petitioner had not replied to the Notice dated 27.05.2022 issued under Section 148A(b) of the Act, case is remitted back to the Respondent to pass a fresh order on merits under Section 148A(d) and to issue a fresh Notice under Section 148 of the Act, subject to the Petitioner shall file a reply to Section 148A(b) Notice dated 27.05.2022 within two weeks from the date of receipt of a copy of this order.

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

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

25.11.2025

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Neutral Citation:Yes/No

To

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C.SARAVANAN,J.,

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