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W.P.No.23691 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.23691 of 2022

and

W.M.P.Nos.22632, 22634 and 28153 of 2022

Veena Gupta

... Petitioner

Vs.

Deputy Commissioner of Income Tax,
Non-Corporate Circle 3(1),
Aayakar Bhavan,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai – 600 034.

(Cause Title amended vide Order dated 22.11.2022
made in W.M.P.No.28155 of 2022 in

W.P.No.23691 of 2022)

... Respondent

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the entire records of the Respondent, contained in DIN and Document No.ITBA/AST/S/91/2022-2023/1044250306(1) dated 28.07.2022, for the Assessment Year 2016-2017 for PAN No.ADXPG8556H and to quash the same as without jurisdiction, arbitrary, unjust, unlawful and consequently forbear the Respondent or its superiors, subordinates, agents from re-assessing the Petitioner's income for the Assessment Year 2016-2017 under



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Section 147 of the Income Tax Act, 1961.

For Petitioner : Mr.P.Giridharan

For Respondent : Mrs.S.Premalatha
Senior Standing Counsel

ORDER

This case was dismissed vide Order dated 04.11.2025. The operative portion of the order was dictated in open Court. However, while finalizing the detailed order, a doubt was entertained as to whether a correct conclusion was arrived on 04.11.2025 or not.

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 has been necessary to recall the order dated 04.11.2025.

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*).



WEB COPY 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 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;



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(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.”

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*).

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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*



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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 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.”*

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 Notice that was issued after 1st April, 2021 under the old regime as it stood till 31.03.2021 has to be



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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 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*).

10. Relevant dates from the facts of the present case are as follows:-

Assessment Year 2016-2017	
Notice / Event	Date
Notice under Section 148 of the Act (old regime)	30.06.2021
Ashish Agarwal Case	04.05.2022



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Notice under Section 148A(b) of the Act	20.05.2022
Time granted to issue Notice under Section 148A(b) of the Act as per Ashish Agarwal Case (30 days)	02.06.2022
Reply given by the Petitioner	03.06.2022
Order under Section 148A(d) of the Act (new regime)	28.07.2022
Notice under Section 148 of the Act (new regime)	28.07.2022

11. Applying the above ratio to the facts of the case it is clear that the Notice that was issued on 30.06.2021 under Section 148 of the Act under the old regime as it stood till 31.03.2021 has to be treated as a Notice issued under Section 148A(b) of the Act in terms of **Ashish Agarwal case** (cited *supra*) and **Rajeev Bansal case** (cited *supra*).

12. A Notice under Section 148 of the Act 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. For the Assessment Year 2016-2017, since the income escaping



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assessment is less than **Rs.50,00,000/-**, the Notice under Section 148 of the Act ought to have been issued on **31.03.2020**. However, by virtue of TOLA extensions, the said date has been extended up to **30.06.2021**.

13. 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 **30.06.2021** is deemed to have been stayed for thirty days for the Income Tax Department to provide to the respective assessee information and material relied upon and two weeks thereafter for the assessee to reply to the Show Cause Notices.

14. In the present case, Notice under Section 148 of the Act under the old regime itself was issued on the last date of limitation viz., 30.06.2021, after the exclusions i.e., excluding the thirty days and fourteen days time period granted by the Hon'ble Supreme Court in **Ashish Agarwal case** (cited *supra*) there is no further time available for the Assessing Officer to issue



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Notice under Section 148 of the Act under the new regime barring the seven days as provided under the fourth *Proviso* to Section 149 of the Act as amended with effect from 01.04.2021. This is evident from the illustration in Paragraph No.112 of **Rajeev Bansal case** (cited *supra*).

15. Therefore, after accounting for all the exclusions, the Assessing Officer in the present case had no time left for issuance of Notice under Section 148 of the Act under the new regime. However, applying the fourth *Proviso* to Section 149 of the Act as amended with effect from 01.04.2021, the Assessing Officer had seven days to issue a Notice under Section 148 of the Act under the new regime.

16. Thus, the Notice under Section 148 of the Act ought to have been issued within seven days from the date of reply given by the Petitioner on 03.06.2022. In other words, the Notice ought to have been issued on or before **10.06.2022**.



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17. However, in the present case, the Notice under Section 148 of the Act under the new regime was issued only on 28.07.2022.

18. Thus, the proceedings initiated on 30.06.2021 which were later substituted by a Notice under Section 148A(b) dated 20.05.2022 which culminated in the impugned Order passed under Section 148A(d) dated 28.07.2022 and Notice issued under Section 148 dated 28.07.2022 are to be held to be beyond time.

19. In view thereof, this Writ Petition challenging these two proceedings deserve to be allowed and is accordingly allowed. No costs.

Connected Writ Miscellaneous Petitions are closed.

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Neutral Citation : Yes/No

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To

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121, Mahatma Gandhi Road,
Nungambakkam, Chennai – 600 034.



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C.SARAVANAN, J.

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