IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.23928 of 2022
and
W.M.P.Nos.22936 and 22937 of 2022

Aashish Kumar Jain ... Petitioner

Vs.

The Deputy Commissioner of Income Tax,
Non-Corporate Circle 19(1), Chennai,
Room No.423A, Fourth Floor, Chennai
Wanaparthy Block,
No.121 Mahatma Gandhi Road,
Nungambakkam, Chennai – 600 034. ... Respondent

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 Respondent and quash the impugned order DIN and Order No.ITBA/COM/F/17/2022-23/1044357474(1) dated 30.07.2022 under Section 148A(d) of the Income Tax Act, 1961 and the consequential impugned notice in DIN and Order No.ITBA/AST/M/148_1/2022-23/1044360013(1) dated 30.07.2022 under Section 148 of the Act passed by the Respondent for the Assessment Year 2014-15 as illegal and not in accordance with law.

For Petitioner : Mr.T.Banusekar

For Respondents : Mr.S.Rajasekar
Junior Standing Counsel and
Mrs.S.Premalatha
Senior Standing Counsel

ORDER

In this Writ Petition, the Petitioner has challenged the Order dated 30.07.2022 passed under Section 148A(d) and consequential Notice dated 30.07.2022 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.

2. This is the second round of litigation before this Court. Earlier, the petitioner was issued with a Notice dated 31.03.2021 under Section 148 of the Income Tax Act, 1961 under the old regime as in force till 31.03.2021 for the Assessment Year 2014-2015. This ultimately culminated in the Order dated 27.01.2022 disposing of the objection raised by the Petitioner to re-open the assessment.

3. The said Order dated 27.01.2022 and Section 148 Notice dated 31.03.2021 issued under the old regime was the subject matter of challenge by the Petitioner in W.P.4546 of 2022 which was filed on 22.02.2022.

4. Meanwhile, the Hon’ble Supreme Court delivered its judgement in **Ashish Agarwal case,** referred to *supra* which later clarified by the decision

of the Hon’ble Supreme Court in **Union of India** Vs. **Rajeev Bansal**, 2024 SCC Online SC 2993.

5. It is in this background, a fresh Notice dated 30.05.2022 under Section 148A(b) of the Act under the new regime was issued to the Petitioner for the aforesaid Assessment Year in the light of the aforesaid decisions of the Hon’ble Supreme Court.

6. At this stage, the said Writ Petition was closed on 06.07.2023 in the light of the fresh Notice issued to the Petitioner on 30.05.2022 under Section 148A(b) of the Act under the new regime. Pursuant to the aforesaid order of this Court in W.P.4546 of 2022, the petitioner ought to have filed a reply to the aforesaid Notice dated 30.05.2022 issued under Section 148A(b) of the Act under the new regime.

7. However, the petitioner failed to respond to the same and thus suffered the impugned order dated 30.07.2022 passed under Section 148A(d) of the Act and the consequential Notice dated 30.07.2022 issued under Section 148 of the Act under the new regime as in force with effect from 01.04.2021.

8. It is the specific case of the Petitioner that even though the Petitioner failed to respond to the Notice dated 30.05.2022 issued under Section 148A(b) of the Act, the entire re-assessment proceeding was without jurisdiction.

9. The challenge to the re-assessment proceeding which culminated in the impugned order and Notice is mainly on the ground that the Respondent changed their stance in re-opening the assessment for the Assessment Year 2014-2015.

10. It is further submitted by the learned counsel for the Petitioner that the stand taken in the Section 148 Notice dated 31.03.2021 issued under the old regime which was the subject matter of challenge in W.P.No.4546 of 2022 and the stand in the Notice dated 30.05.2022 issued under Section 148A(b) of the Act under the new regime which culminated in the impugned order and notice are different.

11. Therefore, it is submitted by the learned counsel for the Petitioner that the impugned proceedings are liable to be interfered with. It is

stated that the conclusion in the impugned order dated 30.07.2022 passed under Section 148A(d) of the Act is in conflict with the conclusion arrived in order dated 27.01.2022 passed in terms of the decision of the Hon'ble Supreme Court in **G.K.N. Driveshafts (India) Limited** Vs. **Income Tax Officer and others.,** (2003) 1 SCC 72.

12. The learned Junior Standing Counsel for the Respondent on the other hand would however submit that the impugned order and notice does not merit any interference, as it was passed as the petitioner failed to respond to the Notice dated 30.05.2022 issued under Section 148A(b) of the Act under the new regime as in force with effect from 01.04.2021.

13. I have heard the learned counsel for the Petitioner and the learned Junior Standing Counsel for the Respondent and 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.

14. 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*).

15. 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.****"*

16. 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."

17. 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*).

18. 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."*

19. 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** under the old regime as it stood till **31.03.2021** 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*).

20. 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 assessees 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 assessees to respond to the Show Cause Notices as confirmed by **Rajeev Bansal case** (cited *supra*) are to be excluded.

21. 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.

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

Assessment Year 2014-2015	
Date	**Event**
31.03.2021	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)
30.05.2022	Notice under Section 148A(b) of the Act
14 days	Time granted for the Petitioner to file a reply
No reply	Reply given by the Petitioner
30.07.2022	Order under Section 148A(d) of the Act (new regime)
30.07.2022	Notice under Section 148 of the Act (new regime)

23. Applying the above ratio to the facts of the case it is clear that the Notice that was issued on **31.03.2021** under Section 148 of the Act for the **Assessment Year 2014-2015** 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*).

24. 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 **31.03.2021** is deemed to have been stayed for thirty days for the Income Tax Department to provide to the respective assessees information and material relied upon and two weeks thereafter for the assessees to reply to the Show Cause Notices.

25. 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.

26. 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**.

27. 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 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."

28. 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
2014-2015	31.03.2019	31.06.2021*	31.03.2018	31.03.2025

*[Note: *However, the 4 years extended to **30.06.2021** in view of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA).]*

29. 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, whereas under the old regime it was 4/6 years depending upon the amount of income allegedly escaping assessment.

30. Thus, for the **Assessment Year 2014-2015**, a Notice under Section 148 of the Act for reassessment under the new regime therefore, ought to have been issued either on or before:-

> (i) **31.03.2018** (within three years from the end of the Assessment Year) if the income escaping assessment was less than **Rs.50,00,000/-**; or
>
> (ii) **31.03.2025** (within ten years) if the income escaping assessment was more than **Rs.50,00,000/-.**

31. Since the income allegedly escaping assessment is **more than Rs.50,00,000/-** viz., **Rs.1,45,59,884/-,** for the **Assessment Year 2014-2015**, a Notice under Section 148 of the Act under the new regime could be issued under the new regime if the limitation had not expired under the old regime. This is also the purport of the 1st proviso to Section 149 of the Act. The first proviso to Section 149 of the Act is reproduced below:-

> *"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*

32. The last date to issue the Notice under Section 148 of the Act under the old regime would have expired on **31.06.2021**. Since Section 148 Notice issued under the old regime was issued on **30.06.2021** before the expiry of limitation of **six years** under the old regime, the Assessing Officer has a period up to **ten years** from the end of the Assessment Year to issue the reassessment notice under Section 148 of the Act under the new regime.

33. Since **Section 148** Notice issued under the old regime on **31.06.2021** was in time for the purpose of issuance of Section 148 Notice under the new regime, the impugned Section 148 notice issued on **30.07.2022** under the new regime is also in time, as the income that had allegedly escaped assessment was more than **Rs.50,00,000/-**. In fact, the Assessing Officers has time upto **31.03.2025** to issue a Notice under Section 148 of the Act under the new regime with effect from **01.04.2021**.

34. Therefore, the argument of the learned counsel for the Petitioner that the impugned Section 148 Notice dated **30.07.2022** is barred by limitation in view of the first proviso to Section 149 of the Act as in force with effect from 01.04.2021 stands answered against the Petitioner 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. The exclusions contained therein operate against the Petitioner in so far as limitation is concerned.

35. It must be observed that impugned order dated 30.07.2022 and the impugned notice dated 30.07.2022 was passed without a reply from the petitioner to Notice dated **30.05.2022** issued under Section 148A(b) of the Act under the new regime as a consequence of which the impugned notice dated **30.07.2022** was issued under Section 148 under the new regime as in force with effect from 01.04.2021.

36. As per Section 148A(d) of the Act, the Assessing Officer shall 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 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 Section 148A(b) of the Act.

37. Thus, the petitioner is to be fully blamed for the predicament that the petitioner faces presently. However, to meet the ends of justice, the impugned order dated **30.07.2022** passed under Section 148A(d) and the impugned Section 148 Notice dated **30.07.2022** are quashed and the case is remitted back to the respondent to pass a fresh order on merits as expeditiously as possible after hearing the petitioner, subject to the Petitioner filing a reply to Section 148A(b) Notice dated **30.05.2022** within fourteen days from the date of receipt of a copy of this order.

38. All the defense that are available to the petitioner in so far as the merits alone are concerned are left open to be canvassed before the Respondent.

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

40. The time between the passing of the impugned Order dated 29.07.2022 and impugned Notice dated 29.07.2022 till the passing of de novo order shall

stand excluded for computing the period of limitation for issuance of Section 148 Notice under the new regime.

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

17.11.2025

Neutral Citation : Yes / No

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To:

The Deputy Commissioner of Income Tax,
Non-Corporate Circle 19(1), Chennai,
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Wanaparthy Block,
No.121 Mahatma Gandhi Road,
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