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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 547/2023

BDR FINVEST PRIVATE LIMITED .....Petitioner

Through: Ms. Kavita Jha, Sr. Adv. with Mr. Vaibhav Kulkarni, Ms. Aabgina and Mr. Hinashu Aggarwal, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX & ANR. .....Respondents

Through: Mr. Debesh Panda, Sr.SC, Mr.Vikramaditya Singh and Ms.Zehra Khan, Jr. SCs

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% 11.08.2025

CM APPL. 49201/2025

1. This is an application seeking early hearing of the writ petition.

2. For the reasons stated in the application and Mr. Panda do not seriously contest the application, the same is allowed. The writ petition is taken up for hearing.

3. The application is disposed of.

W.P.(C) 547/2023

4. This petition has been filed by the petitioner with the following prayers:

> *"(a) issue a writ and/or order and/or direction in the nature of mandamus/certiorari or any other*

appropriate writ, order or direction quashing the impugned order dated 28.07.2022 passed by Respondent No.1 under section 148A(d) of the Act;
(b) issue writ and/or order and/or direction in the nature of mandamus or any other appropriate writ, order or direction quashing the impugned notice dated 29.07.2022 issued under section 148 of the Act and all proceedings/ actions consequent thereto for assessment year 2015-16;
(c) Issue writ of certiorari or writ, order or direction in the nature of certiorari, or any other appropriate writ, order or direction under Article 226 / 227 of the Constitution of India restraining the Respondents from continuing with the assessment proceedings pursuant to the impugned order dated 28.07.2022 passed under section 148A(d) of the Act, for assessment year 2015-16 and all actions/proceedings consequential thereto"

5. The present petition relates to assessment year 2015-2016. The submission of learned counsel for the petitioner is that the impugned order dated 28.07.2022, passed by respondent no.1 under Section 148(A) (d) of the Income Tax Act, 1961 [**'the Act'**] and also the notice dated 29.07.2022 under Section 148 of the Act are bad in law as the same are beyond the period of limitation as prescribed under Section 149 of the Act as amended by the Finance Act, which came into effect on 01.04.2021.

6. He submits that the issue in hand is no more *res integra* as it has been decided by the Hon'ble Supreme Court in the case of **Union of India and Ors. Vs. Rajeev Bansal** *[2024 INSC 754]* as followed by this court in ***Makemytrip India Pvt. Ltd. V. Deputy Commissioner of Income Tax Circle 16 (1) Delhi & Anr.: Neutral Citation No."2025:DHC:1892-DB.*** He has also placed before us an order passed by this court in W.P. (C) 6845/2023

Viable Management Consultants Private Limited vs. Income Tax Officer & Ors., wherein a similar issue arose relatable to the assessment year 2015-2016 and this court has set aside the order passed under Section 148 (A) (d), which was followed by a notice dated 25.07.2022 issued under Section 148 of the Act.

7. Mr. Panda, learned counsel appearing for the respondent do not contest the applicability of the judgment of the Supreme Court in ***Union of India and Ors. Vs. Rajeev Bansal*** *(supra)* as followed by this court in ***Makemytrip India Pvt. Ltd. V. Deputy Commissioner of Income Tax Circle 16 (1) Delhi & Anr.*** **a**nd also in the case of ***Mectech Kitfabs Pvt. Ltd. Vs. DCIT Circle 16 (1) New Delhi & Anr.***

8. If that be so, we reproduce paragraphs 11, 12, 13 14 of the judgment of this court in ***Mectech Kitfabs Pvt. Ltd. Vs. DCIT Circle 16 (1) New Delhi & Anr.*** as under:

"11. It is relevant to refer to paragraph 19(e) and 19(f) from the decision of the Supreme Court in ***Union of India and Ors. v. Rajeev Bansal*** *(supra),* which sets out the concession as made on behalf of the Revenue:

> "e. The Finance Act 2021 substituted the old regime for re-assessment with a new regime. The first proviso to Section 149 does not expressly bar the application of TOLA. Section 3 of TOLA applies to the entire Income-tax Act, including Sections 149 and 151 of the new regime. Once the first proviso to Section 149(1)(b) is read with TOLA, then all the notices issued between 1 April 2021 and 30 June 2021 pertaining to assessment years 2013-14, 2014-15, 2015-16, 2016-17, and 2017-18 will be within the period of limitation as explained in the tabulation below:

Assessment year	Within 3 Years	Expiry of Limitation read with TOLA for (2)	Within six Years	Expiry of Limitation read with TOLA for (4)
(1)	(2)	(3)	(4)	(5)
2013-2014	31-3-2017	TOLA not applicable	31-3-2020	30-6-2021
2014-2015	31-3-2018	TOLA not applicable	31-3-2021	30-6-2021
2015-2016	31-3-2019	TOLA not applicable	31-3-2022	TOLA not applicable
2016-17	31-3-2020	30-6-2021	31-3-2023	TOLA not applicable
2017-2018	31-3-2021	30-6-2021	31-3-2024	TOLA not applicable

> f. The Revenue concedes that for the assessment year 2015-16, all notices issued on or after 1 April 2021 will have to be dropped as they will not fall for completion during the period prescribed under TOLA;"

12. In view of the above concession, the impugned notice and the proceedings relating thereto are required to be set aside. We may also note the decision of the Supreme Court in ***Deepak Steel and Power Ltd. v. Central Board of Direct Taxes and Ors.: Civil Appeal No.5177/2025, decided on 02.04.2025***. The said appeal arose from orders passed by the Hon'ble High Court of Orissa and Cuttack declining to entertain batch of petitions filed by the Assessees. The attention of the Supreme Court was drawn to the concession made on behalf of the Revenue in ***Union of India & Ors. v. Rajeev Bansal*** *(supra)* and noting the same, the Supreme Court allowed the appeals. The relevant extract of the said decision is set out below:

> "4. The learned counsel appearing for the revenue with his usual fairness invited the attention of this Court to a three judge bench decision of this Court in Union of India and Ors. v. Rajeev Bansal, reported in 2024 SCC OnLine SC 2693, more particularly, paragraph 19(f) which reads thus:-
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> > "19. (f) The Revenue concedes that for the assessment year 2015-2016, all notices issued on or after April 1, 2021 will have to be dropped as they will not fall for completion during the period prescribed under the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020."
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> 5. As the revenue made a concession in the aforesaid decision that is for the assessment year 2015-2016, all notices issued on or after 1st April, 2021 will have to be dropped as they would not fall for completion during the period prescribed under the taxation and other laws (Relaxation and Amendment of certain Provisions Act, 2020). Nothing further is required to be adjudicated in this matter as the notices so far as the present litigation is concerned is dated 25.6.2021.

> 6. In view of the aforesaid, in such circumstances referred to above the original writ petition nos.2446 of 2023, 2543 of 2023 and 2544 of 2023 respectively filed before the High Court of Orissa at cuttack stands allowed.

> 13. The notice dated 26.07.2022 issued under Section 148 of the Act stands quashed and set aside. Concededly, the controversy is covered in favour of the petitioner by the decision of this court in ***Makemytrip India Pvt. Ltd. v. Deputy Commissioner of Income Tax Circle 16 (1) Delhi & Anr.: Neutral Citation No.: 2025:DHC:1892-DB***.
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> 14. The petition is, accordingly, allowed and all proceedings initiated pursuant thereto are set aside.

9. Accordingly, the impugned order dated 28.07.2022, passed under Section 148 (A) (d) and also notice dated 29.07.2022, passed under Section 148 of the Act are set aside. Any consequential proceedings initiated pursuant to the notice dated 29.07.2022 are also set aside.

10. The writ petition is disposed of as allowed. Pending application, if any, is disposed of.

11. The date already fixed i.e. 16.09.2025 is cancelled.

V. KAMESWAR RAO, J

VINOD KUMAR, J

AUGUST 11, 2025
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