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

+ W.P.(C) 5801/2023 & CM No.22722/2023

AJAY JAIN HUF

.....Petitioner

Through: Mr. Nishit M. Gandhi, Mr. Priyanshu  
& Mr. Aadnya C. Bhandari, Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX.....Respondent

Through: Mr. Abhishek Maratha, Mr. Apoorv  
Agarwal, Mr. Parth Samwal, Mr.  
Nupur Sharma, Mr. Gaurav Singh,  
Mr. Bhanukaran Singh Jodha, Ms.  
Muskaan Goel & Mr. Himanshu  
Gaur, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**HON'BLE MR. JUSTICE TEJAS KARIA**

**ORDER**

**28.04.2025**

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1. The petitioner has filed the present petition, *inter alia*, impugning a notice dated 21.07.2022 [**impugned notice**] issued under Section 148 of the Income Tax Act, 1961 [**the Act**] and further proceedings relating to the said notice in respect of assessment year [**AY**] 2015-16.
2. The petitioner is a Hindu Undivided Family (HUF). The petitioner filed its return of income for AY 2015-16 on 26.08.2015, declaring loss of ₹14,57,450/-.
3. The Assessing Officer [**AO**] issued a notice dated 31.03.2021, which was served on 01.04.2021 under Section 148 of the Act seeking to reopen the assessment for AY 2015-16. Although the said notice was issued after 31.03.2021, the procedure as prescribed under Section 148A of the Act was not followed, as the notice was premised on the provisions relating to



reassessment as were in force prior to 31.03.2021.

4. Thereafter, by a communication dated 28.05.2022, the AO referred to the decision of the Supreme Court in ***Union of India & Ors. v. Ashish Agarwal: (2022) 444 ITR 1*** and forwarded certain information, which, according to the AO, suggested that the petitioner's income had escaped assessment. The said communication also mentioned that in terms of the aforementioned decision in ***Union of India & Ors. v. Ashish Agarwal (supra)***, the impugned notice issued under Section 148 of the Act was deemed to be a notice under Section 148A(b) of the Act. The petitioner responded to the said notice on 07.07.2022.

5. The AO passed an order dated 21.07.2022 under Section 148A(d) of the Act holding that it was a fit case for issuance of a notice under Section 148 of the Act in respect of AY 2015-16. The said order was forwarded to the petitioner along with a notice dated 21.07.2022 issued under Section 148 of the Act.

6. The petitioner contends that the proceedings initiated pursuant to the impugned notice dated 21.07.2022 are required to be set aside in view of the concession made by the Revenue before the Supreme Court in ***Union of India and Ors. v. Rajeev Bansal: 2024 INSC 754***.

7. 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:

“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;”

8. 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:-

“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.”

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.

9. The notice dated 21.07.2022 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.***



10. The petition is, accordingly, allowed and all proceedings initiated pursuant thereto are set aside.

**VIBHU BAKHRU, J**

**TEJAS KARIA, J**

**APRIL 28, 2025**

**‘gsr’**

*Click here to check corrigendum, if any*