IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7092 OF 2025

Malhari Garade .. Petitioner

Versus

Income Tax Officer, Ward 9(1),
Pune and Ors. .. Respondents

Mr. Tanmay M. Phadke, *for the Petitioner.*

Mr. Vikas T. Khanchandani, *for the Respondent.*

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: APRIL 20, 2026

P. C.

1. Rule. Respondents waive service. With the consent of the parties, Rule is made returnable immediately and heard finally.

2. The above Writ Petition is filed challenging the notice dated 4th April 2022 issued under Section 148 of the Income Tax Act, 1961 (for short "**IT Act**"), and the consequential Assessment Order dated 20th March 2024. The Assessment Year (**A.Y.**) in question is A.Y. 2015-2016.

3. The short point on which the notice issued under Section 148 is challenged before us is that the Income Tax Department, in the case of ***Union of India Vs. Rajeev Bansal [(2024) 469 ITR 46 (SC)]*** has categorically conceded that for A.Y. 2015-2016, all notices issued after 1st April 2021 would be dropped. In the present case, the impugned notice is dated 4th April 2022 for A.Y. 2015-2016, and consequently, the aforesaid notice is invalid, and all consequential actions taken pursuant thereto also have to go.

4. On the other hand, the learned Advocate, appearing on behalf of the Respondents, urged that the Petitioner has already availed of the alternate remedy of filing an Appeal before the CIT (Appeals). Hence, this Writ Petition should not be entertained. He also argued that in any case, the Petitioner has belatedly approached this Court and thus, on the ground of delay and laches also this Writ Petition should be dismissed. However, the learned Counsel fairly did not dispute the fact that the impugned notice relates to A.Y. 2015-2016 and the same has been issued on 4th April 2022. He also fairly stated that in view of the Department's concession before the Hon'ble Supreme Court in the case of *Rajeev Bansal (supra),* the issue of validity of such notice under Section 148 (for A.Y. 2015-2016) now stands concluded in favour of the Petitioner.

5. We have heard the learned Counsel for the parties and considered all the rival submissions.

6. It is not in dispute that the impugned notice is dated 4th April 2022 and relates to A.Y. 2015-2016. It is also not in dispute that the Department has made a concession before the Hon'ble Supreme Court in the case of *Rajeev Bansal (supra)* that all notices issued after 1st April 2021 (for A.Y. 2015-2016) will have to be dropped, and which is recorded in paragraph 19 of the said decision. The relevant portion reads thus:-

> *"19. Mr. N Venkataraman, learned Additional Solicitor General of India, made the following submissions on behalf of the Revenue:*
>
> *a. ...*
>
> *b. ...*
>
> *...*
>
> *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;"*

7. The decision in *Rajeev Bansal (supra)* was thereafter followed by the Hon'ble Supreme Court in ***Deepak Steel and Power Ltd. Vs. CBDT [(2025) 174 taxmann.com 144]***. Paragraph 5 of the said judgment reads as under:-

> *"5. As the revenue made a concession in the aforesaid decision that is for the assessment year 2015-12016, 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 Provision 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."*

8. Lastly this Court in ***Cherian Nallathu Abraham Annamma Vs. ITO, International Tax [(2025) 179 taxmann.com 433]*** as well as in the case of ***Mitra Biswas Vs. Income Tax Officer [2026 183 taxmann.com 161 (Bombay)]***, under similar circumstances, quashed the impugned notice issued under Section 148 and consequential orders relating to A.Y. 2015-2016 and granted liberty to the Petitioner to withdraw the pending Appeal before the CIT (Appeals).

9. As far as the aspect of delay is concerned, we observe that since the Department has unequivocally conceded the issue in question before the Hon'ble Supreme Court in the case of *Rajeev Bansal (supra)*, we do not deem it appropriate to deny relief to the Petitioner solely on the ground of delay. Any delay on the part of the Petitioner would not validate a notice which is otherwise declared to be invalid in the eyes of law, more so when the Department has initiated recovery proceedings based upon such notice. We thus find merit in the submissions canvassed on behalf of the Petitioner that the impugned notice issued under Section 148 and all the consequential orders/notices for A.Y. 2015-2016 are bad in law.

10. Accordingly, the impugned notice dated 4th April 2022 issued under Section 148 of the IT Act, the Assessment Order dated 20th March 2024 and all consequential orders/notices, including recovery notices, are hereby quashed and set aside.

11. In light of this order, the learned Counsel appearing on behalf of the Petitioner, on instructions, undertakes to withdraw the Appeal filed by the Petitioner before the CIT (Appeals) within a period of 2 weeks from the date of uploading of this order. The undertaking is accepted.

12. If, for any reason, the present order is challenged by the Revenue and is set aside, the Appeal filed by the Petitioner before the CIT (Appeals) would stand revived, and the same shall be prosecuted on its own merits and in accordance with law.

13. Rule is made absolute in the aforesaid terms, and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

14. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**

Darshan Patil

Signed by: Darshan Patil
Designation: PA To Honourable Judge
Date: 21/04/2026 15:18:22