IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2026

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.11606 of 2023
and
W.M.P.Nos.11511, 11512 & 11513 of 2023

Ravi Constructions,
No. 97, Kalyan Towers,
East Lokamanya Street, R.S. Puram,
Coimbatore - 641 002.
Rep by its Partner V. Ravi

Present Address No. 188-B5, SLS Luxury Apartment
Sambandam Road East, R.S. Puram,
Coimbatore-641 002. ... Petitioner

Vs.

The Assistant Commissioner of Income Tax
Central Circle -3, Main Building,
63 Race Course Road, Coimbatore-641 018. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari calling for the records of the Respondent in PAN AAOFR7955B and quash the impugned order passed by the Respondent under Section 148 A(d) of the Income Tax Act 1961 dated 28.04.2022 in DIN & Notice No ITBA / AST / F / 148 A / 2022 -23 / 1042885904(1) and the consequential notice u/s. 148 of the act dated 28.04.2022 in DIN and Notice No. ITBA / AST / S 148 -1 / 2022-23 / 10428 86357 (1) for the Assessment year 2015-16.

For Petitioner	:	Mr.Venkata Narayanan For Subbaraya Aiyar Padmanabhan
For Respondent	:	Mr.A.P.Srinivas Senior Standing Counsel and Mr.A.N.R.Jayaprathap Junior Standing Counsel

ORDER

In this Writ Petition, the petitioner has challenged the impugned order dated **28.04.2022** passed under Section 148A(d) of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') and the consequential Notice dated **28.04.2022** issued under Section 148 of the Act under the new regime as in force with effect from **01.04.2021** for the **Assessment Year 2015-2016.**

2. The petitioner had filed its Return of Income on**30.09.2015** for the **Assessment Year 2015-2016** admitting a total income of **Rs.22,83,270/-**. The said Return of Income was processed under Section 143(1) of the Act on **01.12.2015.**

3. The Petitioner was thereafter issued with a Notice dated **31.03.2022** under Section 148A(b) of the Act under the new regime as in force with effect from **01.04.2021**. The said notice ultimately culminated in the impugned Section 148A(d) order dated **28.04.2022** and the consequential Section 148 Notice dated **28.04.2022**.

4. Meanwhile, the Hon'ble Supreme Court delivered its verdict in **Union of India Vs. Ashish Agarwal**., (2024) SCC Online SC 2693 on **04.05.2022**, which was later further clarified by the Hon'ble Supreme Court in **Union of India Vs. Rajeev Bansal**, 2024 SCC Online SC 2993. I shall refer to the same in due course.

5. The challenge to the impugned order dated **28.04.2022** passed under Section 148A(d) of Act and the consequential Section 148 Notice dated **28.04.2022** is primarily on the ground that the limitation for issuance of Section 148 Notice. According to the Petitioner, the limitation had already expired on **31.03.2022** under the old regime and therefore in terms of 1st proviso to Section 149(1) of the Act as in force with effect from **01.04.2021** and therefore the reassessment proceedings were without jurisdiction.

6. That apart, it is submitted by the learned counsel for the petitioner that the Notice dated **31.03.2022** issued under Section 148A(b) of the Act under the new regime as in force with effect from **01.04.2021** was issued based on a survey conducted from **12.02.2021** under Section 133A of the Act.

7. It is therefore submitted by the learned counsel for the petitioner that the last date for issuance of Section 148 Notice expired on **31.03.2022** for the **Assessment Year 2015-2016**.

8. It is therefore submitted that the initiation of reassessment proceedings by issuing a Notice dated **31.03.2022** under Section 148A(b) of the Act under the new regime as in force with effect from **01.04.2021** itself is barred by limitation.

9. The learned counsel for the petitioner has strongly placed reliance on the concession given on behalf of the Department by the Additional Solicitor General of India before the Hon'ble Supreme Court in in para 19(f) in **Union of India Vs. Rajeev Bansal**referred to *supra*.

10. For the sake of convenience, para19 from the said decision referred

to *supra* is extracted below:-

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

a. Parliament enacted TOLA as a free-standing legislation to provide relief and relaxation to both the assesses and the Revenue during the time of COVID-19. TOLA seeks to relax actions and proceedings that could not be completed or complied with within the original time limits specified under the Income-tax Act;

b. Section 149 of the new regime provides three crucial benefits to the assesses: (i) the four-year time limit for all situations has been reduced to three years; (ii) the first proviso to Section 149 ensures that re-assessment for previous assessment years cannot be undertaken beyond six years; and (iii) the monetary threshold of Rupees fifty lakhs will apply to the re assessment for previous assessment years;

c. The relaxations provided under section 3(1) of TOLA apply "notwithstanding anything contained in the specified Act." Section3(1), therefore, overrides the time limits for issuing a notice under Section 148 read with Section 149 of the Income-tax Act;

d. TOLA does not extend the life of the old regime. It merely provides a relaxation for the completion or compliance of actions following the procedure laid down under the new regime;

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 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018 will be within the period of limitation as explained in the tabulation below:

Assessment Year	**With 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	31.03.2017	TOLA not applicable	31.03.2020	30.06.2021

2014-2015	31.03.2018	TOLA not applicable	31.03.2021	30.06.2021
2015-2016	**31.03.2019**	**TOLA not applicable**	**31.03.2022**	**TOLA not applicable**
2016-2017	31.03.2020	30.06.2021	31.03.2023	TOLA not applicable
2017-2018	31.03.2021	30.06.2021	31.03.2024	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;

g. Section 2 of TOLA defines "specified Act" to mean and include the Income-tax Act. The new regime, which came into effect on 1 April 2021, is now part of the Income-tax Act. Therefore, TOLA continues to apply to the Income Tax Act even after 1 April 2021, and

h. Ashish Agarwal (supra) treated Section 148 notices issued by the Revenue between 1 April 2021 and 30 June 2021 as show-cause notices in terms of Section 148A(b). Thereafter, the Revenue issued notices under section 148 of the new regime between July and August 2022. Invalidation of the Section 148 notices issued under the new regime on the ground that they were issued beyond the time limit specified under the Income-tax Act read with TOLA will completely frustrate the judicial exercise undertaken by this Court in Ashish Agarwal (supra).”

11. Further, reference has been made to Paragraph Nos. 46 and 49 from the decision of the Hon’ble Supreme Court in **Union of India Vs. Rajeev Bansal** referred to supra. For the sake for clarity, it is also reproduced before:-

46. *The ingredients of the proviso could be broken down for analysis as follows: (i) no notice under section 148 of the new regime can be issued at any time*

for an assessment year beginning on or before 1 April à re (ii) if it is barred at the time when the notice is sought to be issued because of the "time limits specified the provisions of 149(1)(b) of the old regime. Thus, a notice could be issued under section 148 of the st regime for assessment year 2021-2022 and before only if the time limit for issuance of such notice continued to exist under section 149(1)(b) of the old regime.

49. *The first proviso to Section 149(1)(b) requires the determination of whether the time limit prescribed under section 149(1)(b) of the old regime continues to exist for the assessment year 2021-2022 and before. Resultantly, a notice under Section 148 of the new regime cannot be issued if the period of six years from the end of the relevant assessment year has expired at the time of issuance of the notice. This also ensures that the new time limit of ten years prescribed under section 149(1)(b) of the new regime applies prospectively. For example, for the assessment year 2012-2013, the ten year period would have expired on 31 March 2023, while the six year period expired on 31 March 2019. Without the proviso to Section 149(1)(b) of the new regime, the Revenue could have had the power to reopen assessments for the year 2012-2013 if the escaped assessment amounted to Rupees fifty lakhs or more. The proviso limits the retrospective operation of Section 149(1*)(b) to protect the interests of the assesses."

12. In this connection, the learned counsel for the petitioner has also drawn the attention to a recent decision of the Hon'ble Supreme Court in **Deepak Steel and Power Limited Vs. Central Board of Direct Taxes.,** [2025] 476 ITR 369 (SC).

13. It is further submitted by the learned counsel for the petitioner that the entries in the books of account did not qualify as "assets" for the purpose of issuance of a Notice under Section 148 of the Act during the period in dispute viz., **Financial Year 2014-2015.**

14. That apart, the learned counsel for the petitioner would submit that in accordance with Section 149 of the Income Tax Act, 1961 which was amended by the Finance Act, 2021 with effect from **01.04.2021**, the extended period of limitation exceeding three years but not more than ten years was available only if the Assessing Officer was in possession of **"books of account"** or **"other documents"** or **"evidence"** which revealed that the income chargeable to tax, represented in the form of **"assets"** had escaped assessment was likely to amount to **Rs.50,00,000/-** or **more** in a particular Assessment Year and that only under such circumstance could a Notice under Section 148 of the Act under the new regime be issued.

15. It is submitted by the learned counsel for the petitioner that the entries found in the blue sheets recovered during the survey conducted under Section 133A of the Act did not answer the definition of 'assets' as contemplated under the statute till 31.02.2022. Hence, it is submitted that the impugned proceedings initiated under Section 148A(b) of the Act which culminated in the impugned proceedings are liable to be quashed.

16. On the other hand, the learned Senior Standing Counsel for the respondents submitted that there is no merits in the writ petition. The learned

Senior Standing Counsel for the respondents drew the attention of this Court to the third proviso to Section 149 of the Act as it stood in force from **01.04.2021** till **31.03.2022**.

17. It is further submitted by the learned Senior Standing Counsel for the respondents that as per the third proviso to Section 149 of the Act, the time granted to an assessee to respond to the Show Cause Notice shall be excluded for the purpose of computing the period of limitation under the said section.

18. It is further submitted by the learned Senior Standing Counsel for the respondents that the time or extended time allowed to the assessee, pursuant to the Section 148A(b) Notice or the period during which the proceedings under Section 148A of the Act are stayed by an order or injunction of any Court, shall also be excluded while computing the period of limitation.

19. It is therefore submitted by the learned Senior Standing Counsel for the respondents that the impugned proceedings which commenced with the issuance of Notice under Section 148A(b) of the Act on 31.03.2022 cannot be said to be beyond the period of limitation prescribed under Section 149 of the

Act as it stood between 01.04.2021 and 31.03.2022.

20. That apart, it submitted by the learned Senior Standing Counsel for the respondents that reliance placed by the learned counsel for the petitioner on the decision of the Hon'ble Supreme Court in **Union of India Vs. Rajeev Bansal,** referred to *supra*, is misplaced and without any merits.

21. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents and the materials on record.

22. I 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.

23. Relevant dates for a fair disposal of the present case are as follows:-

24. **Table No.II:**

Assessment Year 2015-2016		
S.No.	**Notice/Event**	**Date**
1	Date of Return of Income filed for the Assessment Year 2015-2016	**30.09.2015**
2	Date of scrutiny under Section 133A of the Act	**12.02.2021**
3	Notice under Section 148A(b) of the Act	**31.03.2022**
4	Reply filed by the Petitioner seeking extension of time for 15 days	**06.04.2022**
5	Notice under Section 148A(b) of the Act granting time upto 22.04.2022	**08.04.2022**
6	Reply filed by the Petitioner seeking extension of time	**21.04.2022**
7	Order under Section 148A(d) of the Act (new regime)	**28.04.2022**
8	Notice under Section 148 of the Act (new regime)	**28.04.2022**

25. Section 149 of the Act under the new regime with effect from **01.04.2021** prescribes a new period of limitation for issuance of Notice under Section 148. It reads as under:-

Section: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."*

26. A new notice under Section 148 of the Act under the new regime as in force with effect from **1st April, 2021** could be issued for reassessment within the limitation prescribed under Section 149 of the Act under the new regime as in force with effect from 01.04.2021 and within the extended time

limit surviving under the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) [TOLA] Act, 2020, if the same was applicable.

27. 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**.

28. For issuing a Notice under Section 148 of the Act under the new regime, the proceeding under Section 148A(d) of the Act under the new regime as in force with effect from 01.04.2021 has to be complied with. The income that had allegedly escaped assessment in this case as per Section 148A(b) Notice dated **31.03.2022** issued under the new regime as in force with effect from **01.04.2021** was **Rs.5,66,10,170/-** during the **Financial Year 2014-2015** viz., **Assessment Year 2015-2016**. Therefore, the respondent could issue a Section 148 Notice under the new regime as in force with effect from **01.04.2021**, as per the 1st proviso to Section 149 of the Act as in force with effect from **01.04.2021**, if the limitation had not already expired under

the old regime as in force till **31.03.2021**.

29. As mentioned above, if the limitation under the old regime as in force till 31.03.2022 had already expired, the exercise under Section 148A(d) of the Act for issuance of Section 148 Notice will not available in view of first proviso to Section 149 of the Act under the new regime as in force with effect from 01.04.2021.

30. A comparison of the timelines prescribed under the old regime and the new regime for the Assessment Year 2015-16 for issuance of Section 148 Notice and specified authority under Section 151 from whom approval has/ had to be obtained are as under:

31. **Table No.I:**

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**
2015-2016	31.03.2020	31.03.2022	31.03.2019	31.03.2026
Pecuniary jurisdiction	Less than Rupees One Lakh	Rupees one lakh or more	Less than Rupees fifty lakhs	Rupees fifty lakhs or more
Specified Authority under Section 151 of the Act	Joint Commssioner	Principal Chief Commissioner/Chief Commissioner or PCIT/CIT	Principal Commissioner/Principal Director/ Commisioner/ Director	Principal Chief Commissioner/Principal Director General/Chief Commissioner/Director General

32. Thus, the last date for issuance of a notice under Section 148 under the old regime for Assessment Year 2015-2016 would have expired on **31.3.2022**. Therefore, Section 148 Notice that was issued beyond the said date on **28.04.2022** may give an impression that the said Section 148 Notice issued to the petitioner on **28.4.2022** was time barred in terms of the first proviso to Section 149 of the Income Tax Act, 1961 as in force with effect from **01.04.2021**.

33. However, it has to be stated that the said Section 148 Notice that was issued to the petitioner on **28.4.2022** cannot be said to be time barred for the following reasons:-

> *(i) Section 148A(b) Notice was issued on 31.03.2022 on the last date for issuance of a notice under Section 148.*
>
> *(ii) Extension of limitation under Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, was limited to **30.6.2021** for the specified period, whenever limitation expired between **15.03.2020** and **30.06.2021**.*
>
> *(iii) However, the period was further extended by the Hon'ble Supreme Court vide its Order dated **10.01.2022** in **Re: Cognizance for Extension of Limitation**, as lockdown due to outbreak of covid-19 continued even after 30.06.2021. As per the decision, for computation for the period of limitation prescribed under any general or special laws in respect of **all judicial or quasi judicial proceedings** between **15.03.2020 and 28.02.2022** was to be excluded.*

(iv) ***That apart, under the scheme of Section 148A(d) and Section 149, itself there are certain period which are to excluded for computation of limitation.***

(v) Therefore, if Section 148A(b) was issued in time before the expiry of limitation under section 149, the time from the date of reply to Section 148A(b) notice till the passing of the order has to be excluded.

34. For the sake of order, Paragraph No. 5(i), the Hon'ble Supreme Court in **Re: Cognizance for Extension of Limitation** is extracted below:-

"5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. 21 of 2022 with the following directions:-

I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of ***all judicial or quasi judicial proceedings.***

II. ..."

35. It will be also 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*).

36. In Paragraph No. 28 from **Ashish Agarwal case** (cited *supra*), the Hon'ble Supreme Court held as under:-

> *"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 showcause 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 showcause 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."

37. In **Ashish Agarwal case** referred to *supra*, a separate limitation was prescribed in respect of 90,000 Notices issued under the old regime after the new regime was in place with effect from **01.04.2021**. The details of the timeline prescribed in **Ashish Agarwal case** referred to *supra* is as under:-

Table No.III:

Ashish Agarwal case	04.05.2022	
Time granted to issue Notice under Section 148A(b) of the Act as per **Ashish Agarwal case**	02.06.2022	30 days
Time given to the petitioner to file a reply as per Ashish Agarwal case from Section 148A(b) Notice	16.06.2022	14 days
Order passed under Section 148A(d) of the Act	30.07.2022	30 days from the end of the month in which reply was filed by the petitioner. In case where no reply is filed, 30 days from the end of the month in which the time granted to file a reply expired

38. In the **Union of India Vs. Rajeev Bansal**, 2024 SCC Online SC 2993, 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."*

39. The Hon'ble Supreme Court while deciding on the **Rajeev Bansal case** (cited *supra*) was conscious of the seemingly confusion position arising on account of the earlier decision in **Ashish Agarwal case** (cited *supra*). Thus, while framing the above questions of law, the Hon'ble Supreme Court in the **Rajeev Bansal case** (cited *supra*) observed as under:-

> "*In **Ashish Agarwal** (supra), this Court did not deal with the issue of whether or not the reassessment notices were issued within the time limits prescribed under the provisions of the Income Tax Act read with the relaxations provided under TOLA. This is the primary issue that comes up for our consideration in the present batch of appeals."*

40. The above questions of law / issues have been answered in Paragraph No.114 was illustrated in Paragraph No.112 of **Rajeev Bansal case** (cited *supra*), which has been already extracted. Paragraph 114 from the said decision is extracted below:

"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;

41. In fact, point **Nos.(iv)** and **(v)** in Para 33 as above also partly stand explained in Paragraph No. 112 of the decision of the Hon'ble Supreme Court in **Rajeev Bansal case** referred to *supra* wherein it was clarified as under:-

"*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. <u>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.</u>

42. In this context it will be useful to refer to paragraph 50 from the judgement of the Hon'ble Supreme Court in **Union of India Vs. Rajeev Bansal**, 2024 SCC Online SC 2993 referred to *supra.* There after examining various judgements and the amended provisions of the Act, the Hon'ble Supreme Court in **Union of India Vs. Rajeev Bansal**, 2024 SCC Online SC 2993observed as under: -

"50. Another important change under section 149(1)(b) of the new regime is the increase in the monetary threshold from rupees one lakh to rupees fifty lakhs. The old regime prescribed a time limit of six years from the end of the relevant assessment year if the income chargeable to tax which escaped assessment was more than rupees one lakh. In comparison, the new regime increases the time limit to ten years if the escaped assessment amounts to more than rupees fifty lakhs. This change could be summarized thus:

Regime	**Time limit**	**Income chargeable to tax which has escaped assessment**
Old regime	Four years but not more than six years.	Rupees one lakh or more
New regime	Three years but not more than ten years	Rupees fifty lakhs or more

43. A section 148 Notice for the Assessment Year 2015- 16 under the new regime as in force with effect from **01.04.2021** for the extended period beyond three years but within ten years, can be thus issued up to **31.03.2026**, provided the limitation under the old regime for its issuance had not already expired.

44. Since the tax that had allegedly escaped assessmentwas more than **Rs.50,00,000/-** viz., **Rs. 5,66,10,170/-**for the Assessment Year 2015 - 16**,** a section 148 Notice can be issuedlatest by **31.03.2026** under the extended period of limitation under the new regime as in force with effect from **01.04.2021,** provided the limitation under the old regime had not expired.

45. In this case, a Notice under Section 148A(b) dated **31.03.2022** was issued on the last date of limitation prescribed for issuance of Section 148

Notice under the old regime.

46. Therefore, on a reading of Section 148A(d) and Section 149 of the Act under the new regime as in force with effect from **01.04.2021,** may give an impression that Section 148 Notice issued to the Petitioner on **28.04.2022** was time barred.

47. However, as mentioned above an order under amended Section 148A(d) of the Act has to be passed within 30 days from the end of the month in which reply was filed in response to Section 148A(b)Notice under Section 148A(c) of the Act. Where no, such reply is filed, anorder under amended Section 148A(d) of the Act has to be passed within **30 days** from the end of the month in which the time granted to file a reply to Section 148A(b) Notice expired.

48. Under the 3rd proviso to amended Section 149 of the Act as in force with effect from **01.04.2021**,the following period is to be excluded for computation of limitation for issuance of Section 148 Notice under the new regime.

(i) the time or extended time allowed to the assessee to respond to show-cause notice issued Section 148A(b) or

(ii) the period during which the proceeding under section 148A was stayed by an order or injunction of any court.

49. Further, as per the 4th proviso to Section 149 of the Act, as in force with effect from **01.04.2021**, where immediately after the exclusion of the above period referred to in the 3rd 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 by seven days and the period of limitation under section 149(1) to issue a Notice under Section 148 shall be deemed to be extended accordingly.

50. In this case, Section 148A(b) Notice is dated **31.03.2022** and **08.04.2022** to which the petitioner filed a reply on **21.04.2022**. The Assessing Officer thus had time till **21.05.2022** to pass order under Section 148A (d) of the Act.

51. Section 148A(d) Order was passed on **28.04.2022**. Thus, the Section 148A(d) order dated 28.04.2022 has been passed well ahead of time, as the time for passing such order would have expired only on **21.05.2022** as

mentioned, it being within one month from the Reply dated **21.04.2022**of the Petitioner.

52. Since, the order dated **28.04.2022**under Section 148A(b) of the Act under the new regime has been passed in time, Section 148 Notice dated **28.04.2022** is to be held in time.

53. For the sake of clarity to explain the following extract of Section 148A(d) and proviso to Section 149 is extracted below: -

<table>
<tr><th colspan="2">Section 148A(d)</th></tr>
<tr><td colspan="2">The Assessing officer shall, before issuing any notice under Section 148,

(d) 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 referred to in clause (c) 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 clause (b) expires:</td></tr>
<tr><th>Third Proviso to Section 149</th><th>Fourth Proviso to Section 149</th></tr>
<tr><td>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</td><td>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</td></tr>
</table>

during which the proceeding under section 148A is stayed by an order or injunction of any court, shall be excluded:	*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.*

54. Therefore, the reference to the concession in Paragraph No. 19 of the decision of the Hon’ble Supreme Court **Rajeev Bansal case** referred to *supra* is irrelevant even otherwise for interfering with the impugned order/notice. That apart, even otherwise as per the decision of the Hon’ble Supreme Court **In RE: Cognizance for Extension of Limitation case,** time between **15.03.2020** and **14.03.2021** is to be excluded**.** Therefore, the challenge to the impugned proceedings is without merits.

55. The other argument of the learned counsel for the petitioner that the information available in the form of entries in the books seized or recovered during the course of a survey under Section 133A of the Act cannot be taken into consideration also cannot be countenanced.

56. The definition of **"asset"** contained in Explanation (b) to Section 149(1) of the Act under the new regime as in force with effect from **01.04.2021** as it stood till **31.03.2022** makes it clear that the definition is inclusive in nature as the expression employed is "includes".

57. The above amendment to Section 149(1)(b) of the Act as in force with effect from **01.04.2022** has to be held as clarificatory in nature. For the sake of clarity, Section 149(1)(b) along with the relevant explanation, as it stood up to **31.03.2022** and thereafter is reproduced below: -

<table>
<tr><th>Section 149(1)(b) with effect from 01.04.2021 till 31.03.2022.</th><th colspan="2">Section 149(1)(b) with effect from 01.04.2022 till 31.03.2023.</th></tr>
<tr><td>149. Time limit for notice.</td><td colspan="2">149. Time limit for notice.</td></tr>
<tr><td>(1) No notice under section 148 shall be issued for the relevant assessment year,—</td><td colspan="2">(1) No notice under section 148 shall be issued for the relevant assessment year,—</td></tr>
<tr><td>(a)if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);</td><td colspan="2">(a)if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);</td></tr>
<tr><td>(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,</td><td colspan="2">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 -</td></tr>
<tr><td></td><td>an expenditure in</td><td>an entry or</td></tr>
</table>

<table>
<tr><td></td><td>***asset;***</td><td>***respect of a transaction or in relation to an event or occasion; or***</td><td>***entries in the books of account***</td></tr>
<tr><td>*which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more* ***for that year:***</td><td colspan="3">*which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more;]*</td></tr>
<tr><td colspan="4">***Explanation:-***</td></tr>
<tr><td>*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.*</td><td colspan="3">*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.*</td></tr>
<tr><td></td><td colspan="3">*[(1A) Notwithstanding anything contained in sub-section (1), where the income chargeable to tax represented in the form of an* ***asse****t or expenditure in relation to an event or occasion of the value referred to in clause (b) of the sub-section (1) has escaped assessment and the investment in such* ***asset*** *or expenditure in relation to such event or occasion has been made or incurred, in more than one previous years relevant to the assessment years within the period referred to in clause (b) of sub-section (1), a notice under section 148 shall be issued for every such assessment year for assessment, reassessment or recomputation, as the case maybe.*</td></tr>
<tr><td>*2) The provisions of sub-section (1) as to the issue of notice shall be subject to the provisions of section 151.*</td><td colspan="3"></td></tr>
</table>

58. Definition of **“asset”**the Explanation to Section 149(1)(b) of the Act by way of amendment to Section 149(1)(b) of the Act as in force with effect from **01.04.2022,** restricts the operation to

> (i) an asset;
>
> (ii) expenditure in respect of a transaction or in relation to an event or occasion; or
>
> (iii) an entry or entires in the books of account, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or
>
> During the period in dispute the definition of **“asset”**was much broader.

59. Therefore, the supplementary plea raised by the petitioner on the ground that the entries in the books seized or recovered did not qualify as “assets” for the purpose of Section 149(1)(b), as it stood on **31.03.2022** being the date on which the notice under Section 148A(b) of the Act was issued also cannot be countenanced.

60. Therefore, this writ petition is liable to be dismissed and is accordingly dismissed with a direction to the respondent to complete the

assessment proceedings as expeditiously as possible pursuant to the impugned Section 148 Notice dated **28.04.2024**.

61. Needless to state, the time during which this Writ Petition was pending and till the web portal is made ready to send and receive further Notice and Reply and till the date of issuance of certified copy of this order shall stand excluded for computation of period of limitation under Section 153 of the Act. No costs. Connected Writ Miscellaneous Petitions are closed.

23.02.2026

av/raja

Neutral Citation : Yes / No

To

The Assistant Commissioner of Income Tax
Central Circle -3, Main Building,
63 Race Course Road, Coimbatore-641 018.

C.SARAVANAN, J.

av/raja

W.P.Nos.2039, 2852, 2857, 2862, 2865, 2900, 2908 & 2913 of 2026

23.02.2026