IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.33409, 33411 and 33414 of 2023
and
W.M.P.Nos.33130, 33133, 33136, 33138, 33140 and 33142 of 2023

M/s.Jeans Brand Factory,
Represented by its Partner
S.Hemavathy

... Petitioner in all W.Ps

Vs.

Deputy Commissioner of Income Tax,
Central Circle – 2(4),
Chennai – 600 034. ... Respondent in all W.Ps

Prayer in W.P.No.33409 of 2023: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned Assessment Order dated 30.03.2023 bearing DIN ITBA/AST/M/147/2022-23/1051710704(1) purportedly issued under Section 144 read with Section 147 of the Income Tax Act, 1961 for the Assessment Year 2016-17, by the Respondent and quash the same.

Prayer in W.P.No.33411 of 2023: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned Assessment Order dated 30.03.2023 bearing DIN ITBA/AST/M/147/2022-23/1051711149(1) purportedly issued under Section 144 read with Section 147 of the Income Tax Act, 1961 for the Assessment Year 2017-18, by the Respondent and quash the same.

Prayer in W.P.No.33414 of 2023: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned Assessment Order dated 30.03.2023 bearing DIN ITBA/AST/M/147/2022-23/1051710910(1) purportedly issued under Section 144 read with Section 147 of the Income Tax Act, 1961 for the Assessment Year 2018-19, by the Respondent and quash the same.

For Petitioner (In all W.Ps)	:	Mrs.T.V.Muthu Abirami
For Respondent (In all W.Ps)	:	Mr.A.P.Srinivas Senior Standing Counsel and Mr.A.N.R.Jayaprathap Junior Standing Counsel

COMMON ORDER

By this Common Order, all these Writ Petitions are being disposed of.

2. In these Writ Petitions, the Petitioner has challenged the impugned Assessment Orders all dated 30.03.2023 passed for the Assessment Year 2016-2017, 2017-2018 and 2018-2019 under Section 144 read with Section 147 of the Income Tax Act, 1961.

3. The undisputed facts of the case are that for all the aforesaid Assessment Years, the Petitioner was issued with a Notice all dated 01.04.2021 under Section 148 of the Act under the old regime as in force till 31.03.2021.

4. These Section 148 Notices dated 01.04.2021 issued under the old regime as in force till 31.03.2021 ultimately culminated in the Assessment Orders dated 30.03.2022 for all the aforesaid Assessment Years against the Petitioner has preferred appeals before the Commissioner of Income Tax (Appeals) under Section 246A of the Act.

5. 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 clarified by the Hon'ble

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

6. 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.

7. 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."

8. 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).

9. 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;

10. Following the ratio of the Hon'ble Supreme Court in **Ashish Agarwal case** (referred *supra*), the Petitioner was issued with a Notice dated **01.06.2022** under Section 148A(b) of the Act under the new regime as in force with effect from **01.04.2021,** which culminated in Section 148A(d) order dated 29.07.2022 and a Notice dated 29.07.2022 under Section 148 of the Act, which has now culminated in the impugned assessment orders dated 30.03.2023.

11. The challenge to the impugned Assessment Orders dated 30.03.2022 is primarily on the ground that once the assessment was completed and an order was passed under Section 147 read with Section 144 of the Act, the issuance of Section 148A(b) Notice under the new regime as in force with effect from 01.04.2021 in the light of the aforesaid decisions of the Hon'ble Supreme Court cannot be justified.

12. Learned counsel for the Petitioner has placed reliance on the decision of this Court in **M/s.Merton** Vs. **The Deputy Commissioner of Income Tax, Chennai and another** in

W.P.No.26782 of 2022 vide Order dated 22.01.2025 wherein in Paragraph Nos.3 and 4, the Court held as under:-

> ***"12. The issue was examined by the Assessing Officer which has culminated in an Assessment Order dated 30.03.2022. The decision of the Hon'ble Supreme Court in Ashish Agarwal's case (cited supra), has summarized the position 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 [Ashok Kumar Agarwal v. Union of India, 2021 SCC OnLine All 799] passed by the High Court of Judicature at Allahabad in WT No. 524 of 2021 and other allied tax appeals/petitions, is/are hereby modified and substituted as under:***
> >
> > ***28.1. 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 148-A of the IT Act as substituted by the Finance Act, 2021 and construed or treated to be show-cause notices in terms of Section 148-A(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.***

28.2. The requirement of conducting any enquiry, if required, with the prior approval of specified authority under Section 148-A(a) is hereby dispensed with as a one-time measure vis-à-vis those notices which have been issued under Section 148 of the unamended Act from 1-4-2021 till date, including those which have been quashed by the High Courts.

28.3. Even otherwise as observed hereinabove holding any enquiry with the prior approval of specified authority is not mandatory but it is for the assessing officers concerned to hold any enquiry, if required.

28.4. The assessing officers shall thereafter pass orders in terms of Section 148-A(d) in respect of each of the assessees concerned; Thereafter after following the procedure as required under Section 148-A may issue notice under Section 148 (as substituted).

28.5. All defences which may be available to the assessees including those available under Section 149 of the IT Act and all rights and contentions which may be available to the assessees concerned and Revenue under the Finance Act, 2021 and in law shall continue to be available.

29. The present order shall be applicable PAN INDIA and all judgments and orders passed

by the different High Courts on the issue and under which similar notices which were issued after 1-4-2021 issued under Section 148 of the Act are set aside and shall be governed by the present order and shall stand modified to the aforesaid extent. The present order is passed in exercise of powers under Article 142 of the Constitution of India so as to avoid any further appeals by the Revenue on the very issue by challenging similar judgments and orders, with a view not to burden this Court with approximately 9000 appeals. We also observe that the present order shall also govern the pending writ petitions, pending before various the High Courts in which similar notices under Section 148 of the Act issued after 1-4-2021 are under challenge.

30. The impugned common judgments and orders [Ashok Kumar Agarwal v. Union of India, 2021 SCC OnLine All 799] passed by the High Court of Allahabad and the similar judgments and orders passed by various High Courts, more particularly, the respective judgments and orders passed by the various High Courts particulars of which are mentioned hereinabove, shall stand modified/substituted to the aforesaid extent only.

31. All these appeals are accordingly partly allowed to the aforesaid extent. In the facts of the case, there shall be no order as to costs.

13. In my view, the aforesaid decision of the Hon'ble Supreme Court in Ashish Agarwal's case (cited supra) has been passed under Article 142 of the Constitution of India in view of the peculiar circumstances arising out of the amendment to the Income Tax Act, 1961 vide Finance Act, 2021. In order to put the issue at rest, the Hon'ble Supreme Court had given the above direction.

14. The Hon'ble Supreme Court has not given a direction to the Assessing Officer to reopen the assessment even when the assessment was completed earlier by treating the notice issued under Section 148 of the Income Tax Act, 1961 as the notice issued under Section 148A(b) of the Income Tax Act, 1961 as amended with effect from 01.04.2021."

The Court took note of the decision of the Hon'ble Supreme Court in **Ashish Agarwal's case** (cited *supra*).

13. Learned Senior Standing Counsel for the Respondent however drew the attention of this Court to Paragraph Nos.99 and 100 from the subsequent decision of the Hon'ble Supreme Court in **Union of India** Vs. **Rajeev Bansal**, 2024 SCC Online SC 2993 rendered on 03.10.2024.

14. It is submitted that although the decision of this Court in **M/s.Merton's case** (cited *supra*) was rendered after the decision of the Hon'ble Supreme Court in **Rajeev Bansal's case** (cited *supra*) rendered on 03.10.2024, the impact of Paragraph Nos.99 and 100 was not considered by this Court in **M/s.Merton's case** (cited *supra*).

15. Therefore, it is submitted by the learned Senior Standing Counsel for the Respondent that the impugned Assessment Orders do not merit any interference. It is therefore submitted that at best the Petitioner can be given liberty to workout the remedy before the Appellate Authority in the manner known to law.

16. I have considered the arguments advanced by the learned counsel for the Petitioner and the learned Senior Standing Counsel for the Respondent.

17. In my view, the decision of this Court in **M/s.Merton's case** (cited *supra*) still holds good. Therefore, the impugned Assessment Orders are liable to be interfered with.

18. Under similar circumstances, this Court in **M/s.Anand Cine Services Private Limited** Vs. **Assistant Commissioner of Income Tax** in **W.P.No.16023 of 2022** vide **Order** dated **04.11.2025** has held as under:-

> "16. It must be observed that once the re-assessment proceedings initiated with issuance of Section 148 Notice under the old regime as in force till **30.06.2021** has already been completed on the earlier set of facts with the issuance of an Assessment Order dated **28.03.2022** under Section 147 of the Act based on the earlier set of facts, the Department cannot reopen the assessment on the basis of the decision of the Hon'ble Supreme court in **Ashish Agarwal case** (cited *supra*).
>
> 17. The principle laid down in **Ashish Agarwal case** (cited *supra*) and **Rajeev Bansal case** (cited *supra*) applies only in cases where the assessment was yet to be completed and no Assessment or Re-Assessment Order had been passed earlier. Only in such cases, a fresh Notice under Section 148A(b) of the Act under the new regime as in force with effect from 01.04.2021 could be validly issued.
>
> 18. Even if the defense of the Petitioner is a technical defense based on the decisions of the Hon'ble Supreme Court in **Ashish Agarwal case** (cited *supra*) and **Rajeev Bansal case** (cited *supra*), the facts remains that the Return of Income filed by the Petitioner on 28.11.2014 was already the subject matter of an Assessment Order dated 28.03.2022 for the Assessment Year 2014-

> 2015. Such an assessment cannot be recalled by issuance of a fresh Notice under Section 148A(b) of the Act."

19. That apart, in Paragraph Nos.99 and 100 in **Rajeev Bansal's case** (cited *supra*), the Hon'ble Supreme Court observed that reassessment proceedings erroneously initiated by the Revenue under the old regime were not wiped out from its existence. The fall out of the above reasonings in Paragraph No.100 from the decision of the Hon'ble Supreme Court in **Rajeev Bansal's case** (cited *supra*) is that after the proceedings that were initiated earlier under the old regime and where no Assessment Orders were passed then within the time frame prescribed in **Rajeev Bansal's case** (cited *supra*) read with **Ashish Agarwal's case** (cited *supra*), a fresh Notice could be issued and within such period of limitation in Section 153 of the Act, Assessment Orders could be passed.

20. However, after an Assessment Order has already been passed, there is no scope for reigniting the proceedings afresh as the purpose of reassessment proceedings under Section 148 of the Act whether under the old regime or under the new regime are one and the same.

21. Under the old regime, an assessee could file a Return of Income after issuance of Section 148 Notice and thereafter seek reasons for reopening of the assessment in terms of the decision of the Hon'ble Supreme Court in **GKN Driveshafts (India) Limited** Vs. **Income Tax Officer,** (2003) 1 SCC 73. However, a new regime is in force with effect from 01.04.2021.

22. Whichever way one looks at, once an order has been passed, there is no scope for issuance of a fresh Notice under Section 148A(b) of the Act to issue Notice under Section 148 of the Act to pass a fresh order once again.

23. Therefore, these Writ Petitions deserve to be allowed and are accordingly allowed. No costs. Connected Writ Miscellaneous Petitions are closed.

10.02.2026

Neutral Citation : Yes / No

arb

To:

Deputy Commissioner of Income Tax,
Central Circle – 2(4),
Chennai – 600 034.

C.SARAVANAN, J.

arb

W.P.Nos.33409, 33411 and 33414 of 2023
and
W.M.P.Nos.33130, 33133, 33136, 33138, 33140 and 33142 of 2023

10.02.2026