IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.17958 of 2023
and
W.M.P.Nos.17108, 17109 and 17110 of 2023

Manoharan Suguna ... Petitioner

Vs.

1.Income Tax Officer,
Ward 2,
Cuddalore-Income Tax Office,
Soorappa Naicken Chavadi,
Cuddalore-607 002.

2.Assessment Unit,
Income Tax Department,
Ministry of Finance. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records in PAN GSSPS2085F for Assessment Year AY 2017-18 and quash the Impugned Order u/s.147 r.w.s.144B of the Income Tax Act,1961, passed by the 1st Respondent in DIN and Order No.ITBA/AST/S/147/2023-24/1052797523(1) dated 12.05.2023 issued by the respondent and all proceedings in furtherance thereof, and to quash the same as arbitrary, unjust and illegal.

For Petitioner : Ms.G.Vardini Karthik

For Respondents : Mrs.S.Premalatha
Senior Standing Counsel

ORDER

In this Writ petition, the petitioner, widow of late Mr.Manoharan who died on 15.02.2015 is before this Court against the impugned assessment order dated 12.05.2023 passed under Section 147 read with Section 144B of the Income Tax Act, 1961 for the **Assessment Year 2017-2018**.

2. By the impugned assessment order, the taxable income of the petitioner has been assessed as Rs. 1,17,40,762/- from sale of a land which originally stood in the name of the deceased husband of the petitioner. The sale of the said land is said to have taken place on 16.06.2016 viz., in the **Financial Year 2016-2017.**

3. The sale was made by the petitioner along with her two children who are the other legal heirs of the petitioner's deceased husband. It appears that the petitioner and her two children had declared the value of the property as only Rs.84,00,000/- in the Sale Deed dated 16.06.2016 which was registered before the SRO at Kundrathur.

4. Since the petitioner had failed to file the Return of Income earlier for the **Assessment Year 2017-2018,** Section 148 Notice dated 29.04.2021 was

issued under the old regime under the provisions of the Income Tax Act, 1961 as in force with effect till 31.03.2021.

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. Following the ratio of the Hon'ble Supreme Court in **Ashish Agarwal case** (referred *supra*), the Petitioner was issued with a Notice dated **30.05.2022** under Section 148A(b) of the Act, which ultimately culminated in the order dated **30.07.2022** passed under Section 148A(d) and the

consequential Section 148 Notice dated **31.07.2022** issued under the provisions of the Act under the new regime as in force with effect from **01.04.2021.**

8. The case of the petitioner is that though the petitioner had not initially filed a Return of Income earlier for the **Assessment Year 2017-2018,** in response to the Section 148 Notice dated **31.07.2022,** the Petitioner filed the Return of Income for the **Assessment Year 2017-2018** on **01.09.2022** declaring a capital gain of **Rs. 29,30,647/-** from the sale of the aforesaid immovable property said to have taken place on **16.06.2016** viz., in the **Financial Year 2016-2017.**

9. It is submitted by the learned counsel for the petitioner that without considering the petitioner's reply, the impugned Assessment Order dated **12.05.2023** has been passed and therefore submits that the impugned Assessment Order dated **12.05.2023** is liable to be set aside on this ground.

10. That apart, it is further submitted by the learned counsel for the petitioner that the re-assessment proceedings initiated by issuance of Section 148A(b) dated **30.05.2022** which ultimately culminated in the order dated

30.07.2022 passed under Section 148A(d) and the consequential Section 148 Notice dated **31.07.2022** was beyond the statutory period of limitation.

11. On a specific query, as to how the impugned assessment order can be said to be time barred under Section 153 of the Act under the new regime as in force with effect from **01.04.2021,** the learned counsel for the petitioner had endeavoured to justify the same by stating that the date of issuance of Section 148 Notice dated **29.04.2021** under the old regime as in force with effect till **31.03.2021** and the subsequent Section 148A(b) Notice dated **30.05.2022** issued under the new regime are to be compared for the purpose of computation of limitation under Section 153 of the Act as in force with effect from **01.04.2021**.

12. Specifically, the learned counsel for the petitioner had drawn the attention of this Court to Paragraph No. 10(iv) of the decision of the Hon'ble Supreme Court in **Union of India Vs. Ashish Agarwal**., case referred to *supra*, which reads as under:-

> "*10(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."

13. I have heard MS.Vardini Karthick, the learned counsel for the Petitioner and the learned Senior Standing Counsel for the Respondents.

14. Relevant dates for the present case are as follows:-

Assessment Year 2017-2018	
Notice/Event	**Date**
Notice under Section 148 of the Act (old regime)	**29.04.2021**
Ashish Agarwal case	04.05.2022
Time granted to issue Notice under Section 148A(b) of the Act as per Ashish Agarwal case (30 days)	02.06.2022
Notice under Section 148A(b) of the Act	**30.05.2022**
Time given as per Ashish Agarwal case to Reply	14 days
Reply given by the Petitioner	**No Reply**
Order under Section 148A(d) of the Act (new regime)	**30.07.2022**
Notice under Section 148 of the Act (new regime)	**31.07.2022**

15. Relevant portion of the **Ashish Agarwal case** (cited *supra*) rendered by the Hon'ble Supreme Court is extracted 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."

16. The Hon'ble Supreme Court in **Ashish Agarwal case** (cited *supra*) has stated that all defences which may be available to the assessee including those under Section 149 of the Income Tax Act, 1961 and all rights and contentions which may be available for the assessees and the Revenue in law shall continue to be available.

17. 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.”

18. 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*).

19. For the sake of clarity, Paragraph No. 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:*
>
> 1. *After April 1, 2021, the Income Tax Act has to be read along with the substituted provisions;*

2. *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;*
3. *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;*
4. *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;*
5. *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;*
6. *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;*
7. ***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

8. *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;*

20. As per the decision of the Hon'ble Supreme Court in **Union of India Vs. Ashish Agarwal**., case referred to *supra* and **Rajeev Bansal case** (cited *supra*), Section 148 Notice dated **29.04.2021** issued under the old regime as in force with effect till **31.03.2021** is deemed to be a Notice issued under Section 148A(b) of the Act under the new regime as in force with from **01.04.2021.**

21. After examining various judgements and the amended provisions of the Act, the Hon'ble Supreme Court in **Rajeev Bansal *case*** referred to *supra* further observed 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

22. With effect from 01.04.2021, a new regime for issuance of Notices under Section 148 of the Act has been prescribed in Section 149 of the Act. As per the first proviso to Section 149(1) of the Act as in force with effect from **01.04.2021**, a Section 148 Notice under the new regime cannot be issued if such a Section 148 Notice could not have been issued under the old regime as in force till **31.03.2021**.

23. In other words, the only condition for issuance of a 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**.

24. The time limit for issuance of Notice under Section 148 as per Section 149 of the Income Tax Act, 1961 under the old regime as in force till **31.03.2021** was 4/6 years. Therefore, the four and six year limitation for issuance of Notice under Section 148 under the old regime for the **Assessment Year 2017-2018** is **31.03.2022** and **31.03.2024** respectively.

25. In accordance with Section 149 of the Act as in force till **31.03.2021**, the last date to issue the Notice under Section 148 of the Act under the old regime, if the income escaping assessment is more than **Rs.1,00,000/-** would have expired on **31.03.2024** for the **Assessment Year 2017-2018.** The last date for issuance of a Notice under Section 148 of the Act under the old regime thus expired only on **31.03.2024**, as the income that has allegedly escaped assessment was more than **Rs.1,00,000/-.**

26. In this case, the income that had allegedly escaped assessment was more than **Rs.50,00,000/-** for the subject Assessment Year, namely for the

Assessment Year 2017-2018. Since the amount that has allegedly escaped assessment was more than **Rs.50,00,000/-,** a Notice can be issued under the new regime within 10 years from the end of the **Assessment Year 2017-2018**.

27. For the sake of clarity, relevant dates for the calculation of limitation under Section 149 of the Income Tax Act, 1961 are captured hereunder:-

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**
2017-2018	31.03.2021	31.03.2024	31.03.2020	31.03.2028

28. Section 149 of the Act under the new regime with effect from **01.04.2021** which prescribes the limitation for issuance of Notice under Section 148 is extracted hereunder:-

> "***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."

29. Thus, the Respondent had time up to **31.03.2028** to issue a Section 148 Notice under the new regime as in force with effect from **01.04.2021**. Therefore, the order dated **30.07.2022** passed under Section 148A(d) and the consequential Section 148 Notice dated **31.07.2022** issued under the new regime cannot be said to be time barred. Consequently, the impugned assessment order dated 12.05.2023 cannot be quashed on this ground.

30. As far as the merits of the case is concerned, the learned counsel for the petitioner was also unable to explain as to whether there was any construction on the subject land and/or whether the land was sold as such.

Reading of the impugned order indicates that the land was sold by the petitioner along with her children on **16.06.2016**. Therefore, construction, if any, would have been carried out by the buyer who purchased the land from the petitioner and her children and not by the Petitioner.

31. Therefore, *prima facie* this Court is of the view that the stand taken by the respondent in the impugned order for computation of capital gain also does not suffer from any irregularity.

32. However, considering there are several disputed questions of facts and it is for the petitioner to establish the same before the Appellate Authority and since the petitioner ought to have filed a statutory appeal before the Appellate Authority within the period of limitation which has expired now, liberty is granted to file a statutory appeal before the Appellate Authority within a period of 30 days from the date of receipt of copy of this order.

33. Considering the fact that the petitioner has been enjoying the benefits of stay of the impugned assessment order from this Court, the protection that was in force hitherto shall for a period of six months from the date of receipt of copy of this order. It is for the petitioner to secure

appropriate interim relief under Section 220(6) of the Income Tax Act, 1961 or from the Appellate Authority.

34. This writ petition stands dismissed with the above liberty. No costs. Connected Miscellaneous petitions are closed.

20.01.2026

ssn

Neutral Citation : Yes / No

To:

1.Income Tax Officer,
Ward 2,
Cuddalore-Income Tax Office,
Soorappa Naicken Chavadi,
Cuddalore-607 002.

2.Assessment Unit,
Income Tax Department,
Ministry of Finance.

C.SARAVANAN, J.,

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