IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

204 CWP-6045-2023
Date of Decision : 06.03.2026

SEL MANUFACTURING COMPANY LTD.

.... PETITIONER

V/S

DEPUTY COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE-3, LUDHIANA

.... RESPONDENT

CORAM : HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE RAMESH CHANDER DIMRI

Present : Mr.Abhinav Narang, Advocate
for the petitioner.

Ms. Pridhi Sandhu, Advocate
for the respondent.

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LISA GILL, J. (Oral)

1. Prayer in this writ petition is for setting aside notice dated 30.06.2021 under Section 148 of the Income Tax Act, 1961 (for short 'IT Act'), and notice dated 31.05.2022 under Section 148A(b) IT Act; order dated 29.07.2022 under Section 148A(d) of IT Act and consequential notice dated 30.07.2022 under Section 148 of IT Act, for Assessment Year 2016-17, passed by respondent-Income Tax Department.

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2. Case set up by petitioner in this writ petition is that notice under Section 133(6) was issued to assessee on 21.04.2021 for assessment year 2016-17. Assessee submitted a reply partly on 22.04.2021 requesting for more time to furnish desired information. Based on notice issued under Section 133(6) for assessment year 2016-17, respondent issued notice dated 30.06.2021 under Section 148 of the Act for the said assessment year. CWP-13990-2021 was filed by the petitioner in which notice was issued and interim relief granted. This petition alongwith connected matters was adjourned sine die on 22.02.2022 to await the decision of Hon'ble the Supreme Court in SLP No. 1767/2022 titled "Union of India & others vs. Ashish Agarwal". After passing of the order by Hon'ble the Supreme Court in Ashish Aggarwal (Supra), notice under Section 148A(b) was issued on 31.05.2022 treating the notice earlier issued on 30.06.2021 for assessment year 2016-17 to be a notice under Section 148A of the IT Act. Reply was filed by petitioner. Notice dated 30.07.2022 was issued under section 148. In the meanwhile, petitioner-company was admitted to Corporate Insolvency Resolution Process (CIRP) on 11.04.2018 under provisions of the Insolvency and Bankruptcy Code, 2016. Vide order dated 10.02.2021 learned NCLT, Chandigarh approved the resolution plan dated 19.08.2020. As the respondent was still continuing with the proceedings, present writ petition was filed.

3. Learned counsel for petitioner submits that dehors any other issue as has been raised, the matter is squarely covered in favour of petitioner in view of judgment of Hon'ble the Supreme Court in **Union of**

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India Vs. Rajeev Bansal, (2024) 167 Taxmann.com 70 (SC), as the last day till which notice could be issued to petitioner in terms of said judgment was 21.06.2022 whereas said notice was issued on 30.07.2022.

4. It was held by Hon'ble the Supreme Court in **Rajeev Bansal's** case (supra) as under:-

> "111. The clock started ticking for the Revenue only after it received the response of the assesses to the show causes notices. After the receipt of the reply, the assessing officer had to perform the following responsibilities: (i) consider the reply of the assessee under Section 149A(c); (ii) take a decision under Section 149A(d) based on the available material and the reply of the assessee; and (iii) issue a notice under Section 148 if it was a fit case for reassessment. Once the clock started ticking, the assessing officer was required to complete these procedures within the surviving time limit. The surviving time limit, as prescribed under the Income Tax Act read with TOLA, was available to the assessing officers to issue the reassessment notices under Section 148 of the new regime.
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> 112. Let us take the instance of a notice issued on 1 May 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 1 May 2021. After accounting for all the exclusions, the assessing officer will have sixty-one days [days between 1 May 2021 and 30 June 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 18 June 2022, the assessing officer will have sixty-one days from 18 June 2022 to issue a reassessment notice under Section 148 of

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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 18 August 2022.

113. In Ashish Agarwal (supra), this Court allowed the assesses to avail all the defences, including the defence of expiry of the time limit specified under Section 149(1). In the instant appeals, the reassessment notices pertain to the assessment years 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018. To assume jurisdiction to issue notices under Section 148 with respect to the relevant assessment years, an assessing officer has to: (i) issue the notices within the period prescribed under Section 149(1) of the new regime read with TOLA; and (ii) obtain the previous approval of the authority specified under Section 151. A notice issued without complying with the preconditions is invalid as it affects the jurisdiction of the assessing officer. Therefore, the reassessment notices issued under Section 148 of the new regime, which are in pursuance of the deemed notices, ought to be issued within the time limit surviving under the Income Tax Act read with TOLA. A reassessment notice issued beyond the surviving time limit will be time barred.

G. Conclusions

114. In view of the above discussion, we conclude that:

a. After 1 April 2021, the Income Tax Act has to be read along with the substituted provisions;

b. TOLA will continue to apply to the Income Tax Act after 1 April 2021 if any action or proceeding specified

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under the substituted provisions of the Income Tax Act falls for completion between 20 March 2020 and 31 March 2021;
c. Section 3(1) of TOLA 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. TOLA will extend the time limit for the grant of sanction by the authority specified under Section 151. The test to determine whether TOLA 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 20 March 2020 and 31 March 2021, then the specified authority under Section 151(i) has extended time till 30 June 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 20 March 2020 and 31 March 2021, then the specified authority under Section 151(2) has extended time till 31 March 2021 to grant approval;
f. The directions in Ashish Agarwal (supra) will extend to all the ninety thousand reassessment notices issued under the old regime during the period 1 April 2021 and 30 June 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 1 April 2021 and 30 June 2021 till the supply of relevant information and material by the assessing officers to the assesses in terms of the directions issued by this Court in Ashish Agarwal (supra), and the period of two weeks allowed to the assesses 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 TOLA. All notices issued beyond the surviving period are time barred and liable to be set aside."

5. Learned counsel for respondent-Income Tax Department submits that impugned notices under IT Act in the present case have indeed

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been issued beyond the time limit surviving under IT Act read with TOLA and the matter is covered in favour of petitioner in view of judgment of Hon'ble the Supreme Court in the case of **Rajeev Bansal's** case (supra).

6. Keeping in view the facts and circumstances as above, including specific stand of respondent-Income Tax Department, notice dated 30.06.2021 under Section 148 of the Income Tax Act, 1961 (for short 'IT Act'), and notice dated 31.05.2022 under Section 148A(b) IT Act; order dated 29.07.2022 under Section 148A(d) of IT Act and consequential notice dated 30.07.2022 under Section 148 of IT Act, for Assessment Year 2017-18, are set-aside.

7. Writ petition is, accordingly, allowed.

(LISA GILL)
JUDGE

(RAMESH CHANDER DIMRI)
JUDGE

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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No

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