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IN THE HIGH COURT OF DELHI AT NEW DELHI**W.P.(C) 3152/2026, CM APPL. 15203/2026, CM APPL. 15204/2026
DELHI SPORTS AND ENTERTAINMENT PRIVATE LIMITED**

.....Petitioner

**Through: Mr. Ajay Vohra, Sr. Adv. with Mr.
Rohit Jain, Mr. Saksham Singhal &
Ms. Kashish Harwani, Adv.**

versus

DEPUTY COMMISSIONER OF INCOME TAX & ORS.

.....Respondents

**Through: Mr. Sunil Agarwal, SSC with Ms.
Monica Benjamin & Mr. Gibran
Naushad, JSCs, Mr. Rohit
Chakraborty & Ms. Nancy Jain,
Adv.****CORAM:****HON'BLE MR. JUSTICE DINESH MEHTA****HON'BLE MR. JUSTICE VINOD KUMAR****ORDER****20.03.2026**

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REPORTABLE**DINESH MEHTA, J. (ORAL)**

1. Instant petition has been preferred by the petitioner company under Articles 226/227 of the Constitution of India seeking the following reliefs:

“(I) Issue a writ in the nature of certiorari/mandamus or any other appropriate writ, order or direction for quashing:

(a) show-cause notices dated 07.07.2023 and 30.08.2023 issued by Respondent No.3 under section 148A(b) of the Act;

(b) order dated 31.10.2023 passed by Respondent No.3 under section 148A(d) of the Act with prior approval of specified authority,

(c) reassessment notice dated 31.10.2023 issued by Respondent No.3 under section 148 of the Act;



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(d) ex-parte best judgment assessment order dated 05.12.2025 passed by Respondent No.1 under sections 147/144 of the Act, along with consequential notice of demand dated 05.12.2025 issued under section 156 of the Act;

(e) penalty notice [dated 05.12.2025] issued by Respondent No.1 under section 270A of the Act; ”

2. The petitioner is a company engaged in the business of organizing sports events, maintaining sports teams and carrying out other ancillary and related activities. On 30.10.2017, the petitioner company filed its return of income for the Assessment Year (AY) 2017-18 declaring a loss of Rs.1,68,58,353/-.

3. Petitioner's case was selected for scrutiny assessment vide the order dated 30.11.2019 during which an inquiry on the following issues was made:-

1. Share capital / Capital
2. Investments/ advances/ loan
3. Expenses incurred for earning exempt income.

4. According to the petitioner, during the regular assessment proceedings for AY 2017-18 all transactions including issuance of shares by the petitioner were thoroughly examined whereafter an order dated 30.11.2019 under Section 143(3) of the Act of 1961 came to be passed and the Assessing Officer (AO) in-principle accepted petitioner's transactions and computed a net loss at Rs.1,37,54,088/-.

5. Before advertng to the challenge made by the petitioner company to the notices and orders, it would be apt to lay the factual canvas which led to the impugned proceedings.

6. It is a well known fact that on the advent of epidemic (COVID-19), the Central Government enacted The Taxation and Other Laws (Relaxation



and Amendment of Certain Provisions) Act, 2020 (*hereinafter referred to as the 'TOLA'*) with a view to extend the statutory limitation to pass orders and to ensure that the assessee fulfills their statutory obligations while the officers are allowed some time to complete assessment etc., as per the Act of 1961.

7. The Central Government by way of exercising powers vested in it by virtue of Section 3(1) of the TOLA extended the time limits prescribed under Section 149 of the Act of 1961 for the purpose of issuance of notices for reopening the assessment under Section 148 of the Act of 1961, as under:

Date of Notification	Original limitation for issuance of notice under Section 148 of the Act of 1961	Extended Limitation
31.03.2020	20.03.2020 to 29.06.2020	30.06.2020
24.06.2020	20.03.2020 to 31.12.2020	31.03.2021
31.03.2021	31.03.2021	30.04.2021
27.04.2021	Earlier extended up to 30.04.2021 vide Notification dated 31.03.2021	30.06.2021

8. On 14.06.2021, the Jurisdictional Assessing Officer i.e. respondent No.3 issued a notice under Section 148 of the Act of 1961 to the petitioner for AY 2017-18 and sought to re-assess/recompute petitioner's income on the basis of some complaint (Tax Evasion Petition). On 13.07.2021, the petitioner filed a reply; the proceedings however, continued and a few more notices were issued and responded by the petitioner.

9. During the pendency of those proceedings, Hon'ble the Supreme Court passed an order in the case of **Union of India vs. Ashish Agarwal** reported in **(2023) 1 SCC 617** and ruled that all the reassessment



proceedings shall be annulled and the AO shall issue fresh notice alongwith reasons and they shall be construed to be Show cause Notices under section 148A(b) of the Act of 1961. The Respondent No. 3 thus issued fresh notice dated 20.05.2022 calling for petitioner's response.

10. On 30.07.2022, an order under Section 148A(d) of the Act of 1961 came to be passed and a notice under Section 148 of the Act of 1961 of even date was issued by respondent No.3.

11. The petitioner claims to have requested respondent No.3 to provide a copy of the approval granted prior to issuance of notice dated 14.06.2021 and the order dated 30.07.2022, but the same was not provided to the petitioner.

12. The petitioner company thereafter preferred a writ petition being W.P.(C) 937/2023 impugning the order dated 30.07.2022 passed under Section 148A(d) of the Act of 1961 and corresponding notice of even date. Vide judgment dated 25.01.2023, a Coordinate Bench of this Court allowed the writ petition while observing thus:

“10. The impugned assessment order and the notice are set aside.

10.1. The AO will accord personal hearing to the authorized representative of the petitioner.

10.2. Notice in this behalf would be issued, fixing the date and time for personal hearing.

10.3. Before proceeding further in the matter, the AO will furnish all relevant information and material to the petitioner. The petitioner will have liberty to file a further response, in case fresh material is furnished.

10.4. The AO will, thereafter, pass a speaking order, a copy of which will be furnished to the petitioner.”



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13. After about six months of passing of the aforesaid judgment, on 07.07.2023, respondent No.3 issued a notice to the petitioner intimating that the *de-novo* exercise was being undertaken. The petitioner filed its reply and tried to satisfy respondent No.3 about the transactions undertaken by it.

14. On 31.10.2023, a fresh order under Section 148A(d) of the Act of 1961 came to be passed alongwith simultaneous issuance of notice of even date under Section 148 of the Act of 1961. Various correspondences took place between the petitioner and the Jurisdictional Assessing Officer i.e. respondent No. 3. In the meantime, by way of intimation under Section 129 of the Act of 1961, the jurisdiction to assess the petitioner came to be transferred to respondent No.1.

15. On 05.12.2025, an *ex-parte* order under Section 147 read with Section 144 of the Act of 1961 came to be passed whereby a demand of Rs.96.04 crores applying the higher rate of tax prescribed under Section 115BBE of the Act of 1961 was raised. Though the petitioner has alleged non-compliance of the provisions and grievance about the service of the notice, but the same are not of much relevance, because the petitioner has raised other arguments relating to the very reassessment proceedings.

16. The petitioner claims to have preferred an appeal on 03.01.2026 before the Commissioner of Income Tax (Appeals) with a view to arrest limitation. Alongwith the said appeal, a request to stay the outstanding demand is claimed to have been made before respondent No.1 vide letter dated 04.01.2026.

17. Having failed in the appeal, of course after disclosing such fact, the petitioner has preferred the present writ petition laying challenge to the initiation of proceedings so also the assessment order dated 05.12.2025.



18. Mr. Sunil Agarwal, learned senior standing counsel for the respondents at the very outset raised a preliminary objection that since the instant writ petition lays challenge to an assessment order, the proper course for the petitioner is to pursue the statutory remedy which it had already availed before the Commissioner of Income Tax (Appeals) rather than bothering this Court to exercise its writ jurisdiction against such an order. He argued that in the face of availability of alternate remedy coupled with the fact that the petitioner as a matter of fact has availed the remedy, this Court should dismiss the present petition at the threshold.

19. Responding to such preliminary objection, Mr. Ajay Vohra, learned senior counsel for the petitioner argued that the statutory appeal was preferred only with a view to ensure that limitation for filing the appeal does not pass. He argued that the initiation of the proceedings vide the impugned notice dated 30.10.2023 under Section 148 of the Act of 1961 and its culmination into the *ex-parte* assessment order dated 05.12.2025 is *per-se* illegal, arbitrary and violative of the petitioner company's rights and thus the remedy of statutory appeal should not be a bar. He added that simply because the petitioner company has preferred an appeal with a view to arrest the limitation, the doors of this Court should not be closed as the proceedings are illegal for the following reasons:

- (i) The assessment order dated 30.11.2019 for AY 2017-18 had been passed under Section 143(3) of the Act of 1961 and all transactions including the nature of the impugned transaction which is the basis for the demand under challenge were already examined vide assessment order dated 30.11.2019 and thereafter, reassessment proceedings are impermissible.



- (ii) The notice issued on 30.07.2022 under Section 148 of the Act of 1961 is barred by limitation, since the period to pass order under 144A(1) and issuing notice available with the respondent, was only up to 21.06.2022.

20. Having apprised the Court about the aforesaid grounds, learned senior counsel argued that on each of the count, the petitioner's writ petition is maintainable regardless of the fact that the assessment order has been passed and deserves to succeed.

21. Having heard the basic ground of challenge to the proceedings vis-à-vis the preliminary objection so raised by Mr. Agarwal learned senior standing counsel, we allowed Mr. Vohra, learned senior counsel to make submissions on the merit of the case confining it, of course, to the jurisdictional issue, while making it very clear that we wouldn't be examining the correctness of the transactions and whether they are exigible to tax or not. In other words, we made it clear that we will not examine the assessment order on its merits. With that parameter drawn, Mr. Vohra learned senior counsel was allowed to make submissions on the grounds revolving around the proceedings being without jurisdiction.

22. Mr. Vohra, learned senior counsel submitted as far as AY 2017-18 is concerned, a detailed assessment order came to be passed on 30.11.2019, after thorough scrutiny, examination and verification of the transaction. A simple look into it reveals that the transactions relating to purchase/sale of shares were examined by Assessing Officer. He argued that such being the position, the initiation of reassessment proceedings by way of notice dated 14.06.2021, was fundamentally without jurisdiction, as the action on the part



of the Jurisdictional Assessing Officer was nothing more than a mere change of opinion. In this regard, he relied upon the judgment of this Court in the case of ***Ratnagiri Gas and Power Private Limited v. ACIT, Delhi and Ors.*** reported in (2025) 174 Taxman.com 331 and submitted that apart from the proceedings being hit by arbitrariness, the same are bad in the eye of law as the alleged escaped income has not been represented by any assets and none of the conditions mentioned under section 149(1)(b) of the Act of 1961 was satisfied and, therefore, the notice was without jurisdiction.

23. While accepting that for the AY 2017-18, TOLA would not apply, he invited Court's attention towards judgment of Hon'ble the Supreme Court in the case of ***Union of India v. Rajeev Bansal***, reported in (2024) 469 ITR 46 (SC), more particularly the table mentioned in para 19(e) of the said judgment and highlighted that so far as AY 2017-18 is concerned, the limitation of 03 years for issuance notice had expired on 30.06.2021. He submitted that since the fresh notice dated 30.07.2022 came to be issued pursuant to the liberty given by Hon'ble the Supreme Court in the case of ***Ashish Agarwal (supra)***, its permissible time limit has to be examined on the anvil of surviving period given in the case of ***Rajeev Bansal (supra)***, which would apply to AY 2017-18 as well.

24. While highlighting that in pursuance of the direction of *de-novo* proceedings given in the petitioner's case being W.P.(C) 937/2023 which was decided on 25.01.2023, a fresh notice came to be issued on 07.07.2023 which accompanied the reason supplied with the previous notice dated 30.07.2022. He argued that such fact leaves no room for doubt that the same was in continuation of the previous notice which was in terms/continuation of notice firstly issued on 14.06.2021. He argued that since the extended



period of limitation was originally available to the respondents upto 30.06.2021 and the notice issued on 14.06.2021 had been within limitation, the surviving time for issuance of notice was 16 days between 14.06.2021 and 30.06.2021.

25. He added that the period between 14.06.2021 to 30.06.2022 shall be deemed to have freezed as per para 110 read with paras 111 & 112 of the judgment rendered in the case of **Rajeev Bansal (supra)**. He argued that the Assessing Officer had the benefit of surviving period of 16 days after 05.06.2022 (The date of by which Show Cause notice as per the interpretation in the case of **Rajeev Bansal (supra)**) could be issued) and thus he could have issued notice on or before 21.06.2022, whereas the notice came to be issued on 30.07.2022. His argument was that the notice under Section 148 of the Act of 1961 was clearly contrary to the judgment of Hon'ble the Supreme Court in the case of **Rajeev Bansal (supra)** as the survival period of three years got extended was only up to 21.06.2022, though the usual extended period available was up to 30.06.2021.

26. In this regard he navigated the Court through the impugned notice and argued that it reveals that the provision which the Assessing Officer had invoked was only relating to various clauses which are relatable to limitation period of three years and not of extended period of six years.

27. Mr. Agarwal, learned senior standing counsel appearing for the respondent-department although tried his best but could not refute the aforesaid factual and legal position. He though vehemently and alternatively argued that the notice could be issued within 10 years and simply because the approval is not by the person authorized as per Clause (ii) of Section 151, the proceedings per se be not quashed and the respondents be allowed



to take up the proceedings after seeking approval of the Principal Chief Commissioner.

28. Mr. Agarwal, learned senior standing counsel for the respondents, submitted that the plea of the petitioner that the notice dated 30.07.2022 issued under Section 148 of the Act of 1961 is barred by limitation cannot be entertained, as the petitioner did not raise this contention nether in its reply nor in the earlier writ petition, and is therefore precluded from urging the same at this stage.

29. Mr. Agarwal, learned senior standing counsel for the respondents further submitted that the notice might have been issued beyond the period of limitation of three years but if the fact that period of six years was available then and which was later on extended to ten years is taken into consideration, the notice dated 30.07.2022 cannot be said to be barred by limitation. He argued that, true, it is, on 30.07.2022, three years period stood expired (on 30.06.2021), but the Assessing Officer was well justified in initiating the proceedings, if extended period of six years is taken into account.

30. Heard learned counsel for the parties.

31. We find that the petitioner's case was taken up for scrutiny assessment on the following three counts – (a) share capital/capital; (b) expenses incurred for earning exempt income; (c), investment/advances/loans. Such fact is discernible from the notice dated 08.08.2018 (Annexure P-38) so also from the assessment order dated 30.11.2019 under Section 143(3) of the Act of 1961. A perusal of the regular assessment order dated 30.11.2019 reveals that the Jurisdictional Assessing Officer, having noted reasons for scrutiny, had issued various notices/query



letters to the petitioner and conducted threadbare enquiry into the transactions of the petitioner company, including the issues relating to share capital and investments and no addition on such count was made.

32. It is, therefore, clear that the petitioner's transactions in relation to the investment and share capital were thoroughly examined. Once the assessment had been made after examining the issues and there is no concealment on the part of the petitioner-assessee of withholding the information, the respondents cannot justifiably initiate reassessment proceedings, simply because they have received an anonymous complaint. Such action on the part of the Respondent No.3 amounts to change of opinion and is, therefore, contrary to various judgments of Hon'ble the Supreme Court, more particularly the judgments in the case of **CIT vs. Kelvinator of India Ltd. (2010) 320 ITR 561 (SC)** and judgment of this Court in light of the extant provision rendered in the case of **Ratnagiri Gas and Power Private Limited (supra)**.

33. In other words, considering that the assessment order of the petitioner company was passed under Section 143 of the Act of 1961 and the subject transactions had undergone the factual and judicial scanner of the Jurisdictional Assessing Officer, the Assessing Officer can by no stretch of imagination invoke extended period of limitation, though an alternative plea in this regard was sought to be taken by Mr. Agarwal.

34. So far as the argument of Mr. Agarwal, learned senior standing counsel for the respondents, that the petitioner did not raise the objection earlier, and is therefore precluded from urging the same at this stage, is concerned, on careful consideration of the record, we find that such contention of the respondents is factually incorrect inasmuch as objection



regarding limitation was raised by the petitioner in its reply dated 03.06.2022 (Annexure P-18). We deem it appropriate to reproduce the relevant part of the reply which the petitioner company had filed on 03.06.2022 during the first reassessment proceedings pursuant to notice dated 20.05.2022:

“5. Time Barred

The reopening of AV 2017-18 is time barred as per section 149(1)(b) of the Act and Show Cause is unlawful and void ab initio. Section 149(1)(b) of the Act mandates that for issuance of notice u/s 148 beyond 3 years (and upto 10 years), AO should have in his possession:

i. books of account or other documents or evidence which reveal income chargeable to tax has escaped assessment

This condition is clearly not met. Information and material shared with the Assessee does not reveal any income having escaped assessment whatsoever. The many legal & factual justifications including filings with regulatory authorities and scrutiny assessment without any adverse finding establish this conclusively.

ii. Income chargeable to tax has to be represented in the form of:

- a. an asset: this condition is not met*
- b. expenditure in respect of a transaction or in relation to any event or occasions: this condition is not applicable*
- c. an entry or entries in the books of account: this too is not applicable”*

35. It is to be noted that even while seeking the approval of the Principal Commissioner of Income Tax, Central Circle 1, Delhi, the Assessing Officer had dealt with the objection regarding limitation so raised by the petitioner, though cursorily, in the order dated 30.07.2022. It would not be out of place



to copy the relevant part, where the petitioner's objection regarding limitation was dealt with:

“8. Views of AO on objection raised on limitation of issuance of notice u/s 148/148A:-

Reply filed by the assessee on limitation of time for issue on notice 148 has been duly considered and found not tenable. The Hon'ble Supreme Court (Supra) has upheld the views of Hon'ble High Court that the benefit of new law shall be made available even in respect of proceedings relating to past A.Y.. Decision of the Hon'ble Supreme Court read with the time extension provided by Taxation and Other Laws Relaxation and amendment of certain provision) Act, 2020 (TOLA) will allow extended reassessment notices to travel back in time to their original date when such notices were to be issued and then new section 149 of the Act is to be applied at that point.”

36. Such being the position, we are firmly of the view that the respondents' contention that the petitioner's objection regarding limitation or legality of notice dated 30.07.2022 cannot be considered on the ground of limitation, is found to be untenable.

37. We, therefore, proceed to decide, as to whether the notice dated 30.07.2022 issued under Section 148 of the Act of 1961 is beyond the limitation or not. In the present case, usual period of three years from the end of the relevant assessment year for issuing notice under Section 148 of the Act of 1961 expired on 31.03.2021 (as the relevant AY is 2017-18). The said period was however, extended by TOLA and consequently, the time limit for issuing notice got extended up to 30.06.2021.

38. The said notice (dated 14.06.2021) was, however, deemed to be a notice under Section 148A(b) of the Act of 1961 by virtue of judgment of Hon'ble the Supreme Court in the case of ***Ashish Agrawal (supra)***. In the said judgment, Hon'ble the Supreme Court granted further time to provide the material which was required to accompany such notice. As elucidated by



Hon'ble the Apex Court in the case of **Rajeev Bansal (supra)**, the period from the date of issuance of the notice till 04.05.2022 – the date on which Hon'ble the Supreme Court had decided the case of **Ashish Agrawal (supra)**, is required to be excluded in terms of the 5th proviso to Section 149(1) of the Act of 1961.

39. Apart from such exclusion, the time provided till the relevant material was made available to the assessee and the corresponding time made available to the assessee to respond to such notice is also required to be excluded by virtue of third 3rd proviso to Section 149(1) of the Act. Such fiction and the legal position can be discerned from the table given in para 19(e) of the judgment of Hon'ble the Supreme Court in the case of **Rajeev Bansal (supra)**. We deem it appropriate to reproduce paras 19(e), 106, 107 & 108 of the judgment in the case of **Rajeev Bansal (supra)**, which read as follows:

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

(e) ...

Assessment Year	Within 3 Years	Expiry of Limitation read with TOLA for (2)	Within six Years	Expiry of Limitation read (4) with TOLA for (4)
(1)	(2)	(3)	(4)	(5)
2013-2014	31-3-2017	TOLA not applicable	31-3-2020	30-6-2021
2014-2015	31-3-2018	TOLA not applicable	31-3-2021	30-6-2021
2015-2016	31-3-2019	TOLA not applicable	31-3-2022	TOLA not applicable
2016-2017	31-3-2020	30-6-2021	31-3-2023	TOLA not applicable
2017-2018	31-3-2021	30-6-2021	31-3-2024	TOLA not applicable



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106. In *Union of India v. Ashish Agarwal*, this court directed the Assessing Officers to provide relevant information and materials relied upon by the Revenue to the assesseees within thirty days from the date of the judgment. A show-cause notice is effectively issued in terms of section 148A(b) only if it is supplied along with the relevant information and material by the Assessing Officer. Due to the legal fiction, the Assessing Officers were deemed to have been inhibited from acting in pursuance of the section 148A(b) notice till the relevant material was supplied to the assesseees. Therefore, the show-cause notices were deemed to have been stayed until the Assessing Officers provided the relevant information or material to the assesseees in terms of the direction issued in *Union of India v. Ashish Agarwal*. To summarize, the combined effect of the legal fiction and the directions issued by this court in *Union of India v. Ashish Agarwal* 22 is that the show-cause notices that were deemed to have been issued during the period between April 1, 2021 and June 30, 2021 were stayed till the date of supply of the relevant information and material by the Assessing Officer to the assessee. After the supply of the relevant material and information to the assessee, time begins to run for the assesseees to respond to the show-cause notices.

107. The third proviso to section 149 allows the exclusion of time allowed for the assesseees to respond to the show-cause notice under section 149A(b) to compute the period of limitation. The third proviso excludes "the time or extended time allowed to the assessee". Resultantly, the entire time allowed to the assessee to respond to the show-cause notice has to be excluded for computing the period of limitation. In *Union of India v. Ashish Agarwal*, this court provided two weeks to the assesseees to reply to the show-cause notices. This period of two weeks is also liable to be excluded from the computation of limitation given the third proviso to section 149. Hence, the total time that is excluded for computation of limitation for the deemed notices is (i) the time during which the show-cause notices were effectively stayed, that is, from the date of issuance of the deemed notice between April 1, 2021 and June 30, 2021 till the supply of relevant information or material by the Assessing Officers to the assesseees in terms of the directions in *Union of India Agarwal* and (ii) two weeks allowed to the assesseees to respond to the show-cause notices.



(b) *Interplay of Union of India v. Ashish Agarwal with Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020*

108. *The Income-tax Act read with Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 extended the time limit for issuing reassessment notices under section 148, which fell for completion from March 20, 2020 to March 31, 2021, till June 30, 2021. All the reassessment notices under challenge in the present appeals were issued from April 1, 2021 to June 30, 2021 under the old regime Union of India v Ashish Agarwal deemed these reassessment notices under the old regime as show-cause notices under the new regime with effect from the date of issuance of the reassessment notices. The effect of creating the legal fiction is that this court has to imagine real all the consequences and incidents that will inevitably flow from the fiction (East End Dwellings Co. Ltd. v Finsbury Borough Council) Therefore, the logical effect of the creation of the legal fiction by Union of India v. Ashish Agarwal is that the time surviving under the Income-tax Act read with Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 will be available to the Revenue to complete the remaining proceedings in Furtherance of the deemed notices, including issuance of reassessment notices under section 148 of the new regime. The surviving or balance time limit can be calculated by computing the number of days between the date of issuance of the deemed notice and June 30, 2021.”*

Emphasis supplied

40. If the facts of the present case are examined in light of what we have quoted above from the judgment in the case of ***Rajeev Bansal (supra)***, it can be conveniently concluded that initially notice under Section 148 of the Act of 1961 which was subsequently construed to be a notice under Section 148A(b) of the Act of 1961 by the respondents was issued on 30.07.2022. As from said notice (dt. 30.07.2022) itself it is apparent that the same was issued in light of the judgment of Hon’ble the Supreme Court in the case of ***Ashish Agarwal (supra)*** – it will be apposite to reproduce the relevant part of the notice aforesaid:



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“1. (A) I have the following information in your case or in the case of the person in respect of which you are assessable under the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for Assessment Year 2017-18:-

- information which requires action in consequence of the judgment of the Hon’ble Supreme Court in the case Union of India Vs. Ashish Agarwal, Civil Appeal 3005/2022, dated 4th May, 2022.

Suggesting that income chargeable to tax has escaped assessment within the meaning of section 147 of the Act. Order under sub-section (d) of section 148A of the Act has been passed in such case vide DIN ITBA/COM/F/17/2022-23/1044352829(1) dated 7/30/2022 (mm/dd/yy) and annexed herewith for reference,

2. I, therefore, propose to assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for the Assessment Year 2017-18 and I, hereby, require you to furnish, within 30 days from the service of this notice, a return in the prescribed form for the Assessment Year 2017-18.

3. This notice is being issued after obtaining the prior approval of the Pr.CIT-1, New Delhi accorded on date 7/30/2022 (mm/dd/yy) vide Reference No. 943.”

Emphasis supplied

41. We, therefore, unhesitatingly hold that the present proceedings are barred by limitation also, as per amended Section 149(1)(a) since the fresh notice dated 30.07.2022 issued pursuant to the liberty given by the Hon'ble Supreme Court in the case **Ashish Agarwal (Supra)** was beyond the surviving period, set out in the **Rajeev Bansal's** case (**supra**), applicable for AY 2017-18, as explained hereunder:

S.No.	Particulars	AY 2017-18	Remarks
1.	Limitation u/s 149	3 years	Revenue abided by period of 3 years referred in Table 19(c) as is evident from the following (a) Reasons nowhere refers to invocation of



			<i>extended period of 6 years u/s 149(1)(b); [Pg. 345 of the paperbook]</i> <i>(b) No recording of satisfaction of conditions for invoking extended limitation, [Pgs. 360 & 1071 of the paperbook]</i> <i>(c) Original approval taken from Range head (DCIT)</i> <i>(d) Subsequent approvals (dated 30.07.2022 and 27.10.2023) taken from PCIT u/s 151(1) [as reproduced in Para 40 above]</i>
2.	<i>Original Period of limitation u/s 149</i>	<i>31.03.2021</i>	
3.	<i>Original 148 Notice</i>	<i>14.06.2021</i>	
4.	<i>Extended limitation under TOLA</i>	<i>30.06.2021</i>	<i>Para 54(ii) and 69 of SC decision in Rajeev Bansal whereby 3 years period for AY 2017-18 was held extended till 30.06.2021</i>
5.	<i>Time surviving [14.06.2021 to 30.06.2021]</i>	<i>16 days</i>	<i>As per para 107 and 108 of SC decision in Rajeev Bansal explaining surviving period as number of days between date of Original 148 Notice and Expiry of Extended limitation under TOLA</i>
6.	<i>Period of "deemed stay"</i>	<i>14.06.2021 to 05.06.2022</i>	<i>As per para 110 of SC decision in Rajeev Bansal, holding the period between Original 148 Notice and expiry of time to file reply to 148(A)(b) Notice/Letter issued post Ashish Agarwal (SC) as deemed stay.</i>
7.	<i>Surviving Period to issue 148 Notice</i>	<i>16 days from 05.06.2022</i>	<i>In view of para 111 and 112 of SC decision in Rajeev Bansal.</i>
8.	<i>Last date for issuing Notice 148</i>	<i>21.06.2022</i>	<i>The AO had the benefit of 16 days of surviving period after period of deemed stay hence from 05.06.2022 to 21.06.2022.</i>
9.	<i>Actual date of issuance of 148 Notice</i>	<i>30.07.2022</i>	<i>Notice is barred by limitation since it was issued beyond 21.06.2022, the time available after considering the surviving period.</i>

42. During the course of arguments, Mr. Agarwal, learned senior standing counsel for the respondents was not in a position to dispute the aforesaid



position. He was fair and candid in submitting that the notice dated 30.07.2022 appears to be barred by limitation, in case the other submissions are not accepted. While giving the written note also, learned senior standing counsel in tacit terms accepted such legal position. While appreciating Mr. Agarwal for the fair stand, taken by the department, we would like to reproduce the relevant part of the written note given by the department, which reads as follows:

“In accordance with the calculation method provided in the aforesaid judgments, the Petitioner has provided a table at Pgs.45-46 of the present Petition which appears to be correct to the extent that the period of 3 years for AY 2017-18 was falling within the limitation period extended by the Taxation & Other Laws (Relaxation & Amendment of Certain Provisions) Act, 2020 (TOLA), Le. 30.06.2021. Accordingly, by calculating the surviving time period of 16 days (from date of 1st original Section 148 notice) and adding it to the period available for passing order U/s 148A(d) after the last date of filing reply provided in the notice U/s 148A(b), dt. 05.06.2022, it appears that the order U/s. 148A(d) and notice U/s. 148 both dated 30 07.2022 were issued beyond the limitation period of 3 years, though the prior approval was taken from the appropriate specified authority.”

43. We are not much convinced with the argument of Mr. Agarwal, learned senior standing counsel for the respondents that although the three-year period had expired on 30.07.2022, the Assessing Officer was justified in initiating proceedings by taking into account the extended period of six years. Such argument of Mr. Agarwal at the first blush appears to be attractive, but when tested on the touch stone of statutory provisions in the backdrop of the facts, we find that the same cannot save the proceedings.

44. Because, right since its inception of the proceeding, the Assessing Officer had taken the limitation available under clause (a) of Section 149(1) of the Act of 1961. The assertions and the reason provided in the entire



proceedings do not make any reference of the precursors or prerequisites ingredients for invocation of clause (b), which in simple words at the relevant time required that any chargeable tax should represent in the form of asset(s) which amounts to or likely to amount to 50 lakh rupees or more.

45. That apart, the approval at each stage of the proceedings has been obtained from the Principal Commissioner of Income Tax (PCIT) as per Section 151 of the Act of 1961 whereas, sanction for issuing a notice at the relevant time required approval of the Principal Chief Commissioner or the Principal Director General or Chief Commissioner or Director General, if more than three years had elapsed from the end of relevant assessment year. With a view to elucidate the legal position, reproduction of section 151 of the Act of 1961 as existed during the relevant period would not be out of place. Hence, we reproduce:

“151. Sanction for issue of notice. Specified authority for the purposes of section 148 and section 148A shall be.-

- (i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year:*
- (ii) Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year:*

Provided that the period of three years for the purposes of clause (1) shall be computed after taking into account the period of limitation as excluded by the third or fourth or fifth provisos or extended by the sixth proviso to sub-section (1) of section 149.”

46. We are therefore, of the view that viewed from both the angles either the notice dated 30.07.2022 was incompetent having been issued after three years of the limitation or the approval was incompetent, having been granted



by the authority who was not authorized to do the same, in case the extended period were to be invoked.

47. As a concurrence of discussion foregoing, we are of the considered opinion that the notice dated 30.07.2022 issued under Section 148 of the Act of 1961 had been issued beyond the period of limitation as the same, at the best, could have been issued on 21.06.2022 as explained in table mentioned in para No. 39 and the table in para No. 41 *ibid*.

48. Since the notice dated 30.07.2022 is *void-ab-initio*, the subsequent and consequential proceedings, including the order under Section 148A of the Act of 1961 dated 31.10.2023, the notice under Section 148 of the Act of 1961 dated 31.10.2023 and the assessment order dated 05.12.2025 and notice of demand of even date having been issued in furtherance of or which are premised on such notice dated 30.07.2022 also fail and are hereby quashed.

49. In view of the request made by Mr. Agarwal, we hereby leave it open for the respondents to take proceedings afresh, if permissible by or under law, more importantly, bearing the period of limitation and the law laid down in this regard in mind.

50. The writ petition is allowed as indicated in Para Nos. 44-49 above. Pending applications stand disposed of.

DINESH MEHTA
(JUDGE)

VINOD KUMAR
(JUDGE)

MARCH 20, 2026/ck