

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "SMC", PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1995/PUN/2024  
निर्धारण वर्ष / Assessment Years : 2017-18

Pushpadevi Shivilal Rathi, 1, Dainik Parshwabhoomi, Sambhaji Nagar, Jalna, Jalna - 431203 Maharashtra PAN : ACVPR9382B	Vs.	ITO, Ward-1, Jalna
Appellant		Respondent

Assessee by	:	Shri Shubham N. Rathi & Shri Ashutosh A. Dhoot
Revenue by	:	Shri B.S.Rajpurohit
Date of hearing	:	24.10.2024
Date of pronouncement	:	04.12.2024

**आदेश / ORDER**

**PER DR.MANISH BORAD, AM:**

This appeal filed by the assessee pertaining to the Assessment Year (in short "AY") 2017-18 is directed against the order passed u/s.250 of the Income Tax Act, 1961 [in short "the Act"] by ld. Commissioner of Income-tax (Appeals)/NFAC [in short ld."CIT(A)"] dated 26.07.2024 arising out of the Assessment order passed u/s.147 r.w.s.144 r.w.s.144B of the Act dated 30.04.2023.

2. Grounds of appeal raised by the assessee read as under:

"1. EX-PARTE ORDER PASSED BY THE CIT(A) :

1.1 The Learned Commissioner of Income Tax (Appeals) [the Ld. CIT(A)] has erred in not granting proper, sufficient and adequate opportunity of being heard to the while framing the order u/s.250 of the Act.

1.2 In the above circumstances it is humbly prayed to set aside the order passed by the CIT(A).

## 2. THE CHALLENGE TO REASSESSMENT :

2.1 The Learned Income Tax Officer, Ward 1, Jalna [the Ld. JAO] has erred in initiating the reassessment proceedings u/s. 148 of the Income-tax Act, 1961 [the Act].

2.2 On the facts and in the circumstances of the case, the Ld. JAO has initiated the reassessment proceedings without fulfilling the preconditions required to initiate the reassessment proceedings u/s.148-151 of the Act. Further, the Ld. JAO failed to follow the directions as provided by the Hon'ble Apex Court in case of UOI v. Ashish Agrawal-[(2022) 138 taxmann.com 64 (SC)]

2.3 On the facts and in circumstances of the case, the Ld. JAO initiated and passed the assessment order without application of mind to the facts of the case.

2.4 In the above circumstances, facts and in law, the Appellants submits that this case is not fit for initiation of reassessment proceedings. Therefore, the assessment order passed is illegal and deserves to be quashed.

## WITHOUT PREJUDICE TO ABOVE :

### 3. ADDITION OF Rs.11,61,395/- u/s.69A OF THE ACT

3.1 In the facts and circumstances of the case and in law, the Ld. CIT(A) has grossly erred in confirming the addition made by the Assessment Unit, National Faceless Assessment Centre [the Ld. AO] of Rs.11,61,395/- u/s.69A of the Act.

3.2 On the facts and in the circumstances of the case, the Ld. AO made the addition mechanically, without applying his mind to the facts in the present case and without appreciating the provisions of section 197(b) of the Income Declaration Scheme, 2016.

3.3 On the facts and in law in the present case no provisions of section 69A of the Act is attracted.

3.4 In the above facts and circumstances and in law, the addition u/s 69A of the Act is not warranted and deserves to be deleted.

## 4. LEAVE :

*The Appellant craves leave to add, alter, amend or delete any of the above grounds of appeal.”*

3. First I espouse the legal issue challenging the initiation of reassessment proceedings u/s.148 of the Act. The assessee reiterated the facts in the written submissions which are extracted below :

“1. *The timelines of the notices issued/reply filed are depicted in the following chart as follows :*

<i>Date of notice/ reply</i>	<i>Notice/reply</i>	<i>Remark</i>
<i>30.06.2021</i>	<i>Notice u/s.148</i>	<i>The notice as per the unamended law</i>
<i>28.05.2022</i>	<i>Issue letter</i>	<i>The issue letter issued providing information/material as directed by the Supreme Court in Ashish Agrawal</i>
<i>15.06.2022</i>	<i>Reply filed by the Appellant</i>	<i>The response submitted by the Appellant in response to notice us/.148A(b) ( issue letter dated 28.05.2022)</i>
<i>29.07.2022</i>	<i>Order u/s.148A(d)</i>	<i>Alleged escapement of income as per the ld.AO is Rs.11,61,395/-</i>
<i>29.07.2022</i>	<i>Notice u/s.148</i>	<i>As per the amended law</i>

2. *As per the recent judgement of the Hon'ble Supreme Court in case of UOI v. Rajeev Bansal-[(2024) 167 taxmann.com 70 (SC)] the Hon'ble Apex Court has held that TOLA overrides the Income tax Act to the extent of relaxing time limit for issue of reassessment notice which fell for completion from 20.03.2020 to 31.03.2021, till 30.06.2021.*

3. *In the present case, the alleged escapement income even to the admission of the Ld. JAO is 11,61,395/- which below fifty lakh. Therefore, as per the amended section 149 of the Act, the notice u/s 148 in the present case could have been issued only within three years from the end of the relevant assessment year.*

4. *The present case pertains to AY 2017-18, accordingly, the time period of three years to issue notice u/s.148 were expiring on 31.03.2021. As the said period fell within the TOLA relaxation period (20.03.2020 to 31.03.2021), therefore, the said period got extended to 30.06.2021. (Ref: Para 69 of the Judgement).*

5. Further, as per the direction of the Hon'ble Supreme Court in *Ashish Agrawal (supra)*, the notice u/s.148 issued between period 01.04.2021 to 30.06.2021 as per the unamended law was deemed as show cause notice u/s.148A(b) as per the amended law. Further, the Hon'ble Supreme Court in the said decision had directed to the AO to provide the information to the Assessee as required u/s 148A(b). The same was provided to the Appellant in the present case on 28.05.2022.

6. Accordingly, the Hon'ble Supreme Court in *Rajeev Bansal (supra)* held that period up to 30.06.2021 is covered by the provisions of Income-tax Act read with TOLA. (Ref: Para 94 of the Judgement).

7. Thereafter, in *Rajeev Bansal* the Hon'ble Supreme Court by relying on third proviso to section 149 held that the period from 01.07.2021 to 03.05.2022 (that is period before the decision in *Ashish Agarwal*) is deemed to have been stayed by order of Hon'ble Supreme Court in *Ashish Agarwal (supra)* from the date of their issuance (30.06.2021 in the present case) till the date of decision in *Ashish Agarwal* that is 04.05.2022. (Ref: Para 94 to 105 of the Judgement).

8. Further, in the said Judgement, the Hon'ble Court has held that in *Ashish Agarwal (supra)*, the Court had directed the Assessing Officers to provide relevant information and materials relied upon by the Revenue to the assessee within thirty days from the date of the judgement. A show cause notice is effectively issued in terms section 148A(b) only if it is supplied along with the relevant information and material by the assessing officer. Therefore, the show cause notices (issued from 01.04.2021 to 30.06.2021) is deemed to have been stayed until the assessing officers provide the relevant information or material to the assessee in terms of the direction issued in *Ashish Agrawal (supra)*. After the supply of the relevant material and information to the assessee, time begins to run for the assessee to respond to the show cause notices. (Ref: Para 106 of the Judgement).

9. Further, the Hon'ble Court made an observation that the third proviso to section 149 allows the exclusion of time allowed for the assessee to respond to the show cause notice u/s 148A(b) to compute the period of limitation. In *Ashish Agarwal (supra)*, this Court provided two weeks to the assesses 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 1 April 2021 and 30 June 2021 till the supply of relevant information or material by the assessing officers to the assesses in terms of the directions in *Ashish Agarwal (supra)*; and (ii) two weeks allowed to the assesses to respond to the show cause notices. (Ref: Para 107 of the Judgement).

10. Also further, it was held that the Income-tax Act read with TOLA extended the time limit for issuing reassessment notices under section 148, which fell for completion from 20 March 2020 to 31 March 2021, till 30 June 2021. All the reassessment notices under challenge in the

*present appeals were issued from 1 April 2021 to 30 June 2021 under the old regime. Ashish Agarwal (supra) 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 as real all the consequences and incidents that will inevitably flow from the fiction. Therefore, the logical effect of the creation of the legal fiction by Ashish Agarwal (supra) is that the time surviving under the Income-tax Act read with TOLA 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 30 June 2021, (Ref: Para 108 of the Judgement).*

11. *From the aforesaid directions of the Hon'ble Supreme Court, the position that emerges is as follows:*

*i) The period starting from the date of deemed show cause notice till the date of receipt of the information/material as per the directions in the judgement of Ashish Agarwal (supra) is to be excluded.*

*ii) Further, the time period allowed to submit the response in reply to the said show cause notice is to be excluded.*

*iii) Most importantly, the Hon'ble Court has held surviving time under Income tax Act read with TOLA will be available to the Revenue to complete the remaining proceedings in furtherance of the deemed notices, including issuance of reassessment notices u/s 148 of the new regime.*

*iv) The Hon'ble Court has also provided in Para 108, about how to compute the surviving time/balance time limit. The same can be calculated by computing the number of days between the date of issuance of the deemed notice and 30.06.2021.*

12. *The Hon'ble Court to make it clearer has also provided the illustration about how to compute the surviving time in Para 112 of the Judgement. The same is reproduced as follows:*

*"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 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.

13. In the present case, deemed show cause notice (notice u/s.148 as per old regime) was issued to the Appellant on 30.06.2021. Thereafter, the Appellant submitted response to the show cause notice on 15.06.2022. However, the surviving time is zero in the present case as the show cause notice is issued on 30.06.2021 itself. Therefore, after considering all the exclusions as provided by the Hon'ble Supreme Court in *Rajeev Bansal (supra)* the time period that was allowed to the Ld. JAO in the present case to issue notice u/s 148 was only till 15.06.2022. However, the notice u/s 148 (new regime) is issued by the Ld. JAO on 29.07.2022. That is beyond the surviving time. Therefore, the notice u/s 148 (new regime) issued by the Ld. JAO is barred by limitation as per the judgement of the Hon'ble Apex Court in *Rajeev Bansal* and therefore it deserves to be quashed.

**ON MERITS :**

1. The Ld. AO in the present case has invoked the provisions of section 197(b) of the Income Declaration Scheme, 2016 on the ground that the declaration was made of 11,61,395/- against which the tax payable was 5,22,630/-. However, it is alleged by the Ld. AO that the Appellant has made payment of only 3,91,973/- and not made full payment.

2. In this regard it is humbly submitted that the tax was paid fully of 5,22,630/-. It was only that the Appellant inadvertently had two PAN number. However, she was regularly using PAN no. ABKPR1119C. However, while filing the declaration under the IDS, the declaration was filed on the old PAN number (ACVPR9382B). Further the payment of the challans was made as mentioned in the Para 2 of the background.

3. Before making further submission, it is apposite to reproduce the relevant provisions of section 197(b) of the IDS. The same is as follows:

"197. For the removal of doubts, it is hereby declared that-

(a)..

(b) where any declaration has been made under section 183 but no tax, surcharge and penalty referred to in section 184 and section 185 has been paid within the time specified under section 187, the undisclosed income shall be chargeable to tax under the Income-tax Act in the previous year in which such declaration is made;

(c)...

4. The aforesaid provision is applicable only if the payment of tax, surcharge and penalty as referred in the said scheme is not paid within time specified. In the present case, the Appellant has made the payment as specified in Form 2 issued by the Designated Authority within

*specified time. It is only that the payment was made partially on two different PAN cards of the Appellant.*

*5. Therefore, it is humbly submitted before Your Honour that the allegation of not making full payment of tax by the Ld. AO is completely wrong. The provisions of section 197(b) are clearly not attracted in the present case. Therefore, it is humbly prayed before Your Honours to consider the payment made and delete the additions made in the assessment order.”*

4. On the other hand, ld. DR supported the orders of the lower authorities and stated that valid notice u/s.148 of the Act was issued as per the guidelines given by the Hon'ble Apex Court in the case of *Union of India Vs. Rajeev Bansal (2024 167 taxmann.com 70 (SC)*.

5. I have considered the rival contentions and perused the record placed before us. The assessee has challenged the validity of notice u/s.148 of the Act issued for carrying out reassessment proceedings contending that the same is barred by limitation and the reassessment proceedings deserves to be quashed. For the sake of repetition I again reproduce below the dates of notice issued u/s.148, letter issued to the assessee, reply filed and the order u/s.148A(d) of the Act and finally the notice u/s.148 of the Act.

Date of notice/ reply	Notice/reply	Remark
30.06.2021	Notice u/s.148	The notice as per the unamended law
28.05.2022	Issue letter	The issue letter issued providing information/material as

		directed by the Supreme Court in Ashish Agrawal
15.06.2022	Reply filed by the Appellant	The response submitted by the Appellant in response to notice u/s.148A(b) ( issue letter dated 28.05.2022)
29.07.2022	Order u/s.148A(d)	Alleged escapement of income as per the Id.AO is Rs.11,61,395/-
29.07.2022	Notice u/s.148	As per the amended law

6. The Id. Counsel for the assessee based on his understanding and interpretation of the judgment of Hon'ble Apex Court in the case of *Union of India Vs. Rajeev Bansal (supra)* is contending that since the notice u/s.148 of the Act has been issued on 30.06.2021, there was no surviving time left with the AO to carry out further the proceedings under the amended section 148 of the Act. Contention of the Id. Counsel for the assessee has been observed in para 13 of its written submissions extracted (supra).

7. Before examining the facts, I would first like to go to the relevant extracts from the judgment of Hon'ble Apex Court in the case case *Union of India Vs. Rajeev Bansal (supra)* which read as under :

*“108. The Income Tax Act read with TOLA extended the time limit for issuing reassessment notices under Section 148, which fell for completion from 20 March 2020 to 31 March 2021, till 30 June 2021. All the reassessment notices under challenge in the present appeals were issued from 1 April 2021 to 30 June 2021 under the old regime. Ashish Agarwal (supra) 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 as real all the consequences and incidents that will inevitably flow from the fiction. 163 Therefore, the logical effect of the creation of the legal fiction by Ashish Agarwal (supra) is that the time surviving under the Income Tax Act read with TOLA 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 30 June 2021.

109. If this Court had not created the legal fiction and the original reassessment notices were validly issued according to the provisions of the new regime, the notices under Section 148 of the new regime would have to be issued within the time limits extended by TOLA. As a corollary, the reassessment notices to be issued in pursuance of the deemed notices must also be within the time limit surviving under the Income Tax Act read with TOLA. This construction gives full effect to the legal fiction created in *Ashish Agarwal (supra)* and enables both the assesses and the Revenue to obtain the benefit of all consequences flowing from the fiction.

110. The effect of the creation of the legal fiction in *Ashish Agarwal (supra)* was that it stopped the clock of limitation with effect from the date of issuance of Section 148 notices under the old regime [which is also the date of issuance of the deemed notices]. As discussed in the preceding segments of this judgment, the period from the date of the issuance of the deemed notices 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)* has to be excluded from the computation of the period of limitation. Moreover, the period of two weeks granted to the assesses to reply to the show cause notices must also be excluded in terms of the third proviso to Section 149.

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 *See State of A P v. A P Pensioners Association, (2005) 13 SCC 161 [28]*. [This Court observed that the “legal fiction undoubtedly is to be construed in such a manner so as to enable a person, for whose benefit such legal fiction has been created, to obtain all consequences flowing therefrom.”] PART F 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.

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 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 PART G 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 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, 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;*

*115. The judgments of the High Courts rendered in Union of India v. Rajeev Bansal, 165 Keenara Industries Pvt. Ltd. v. ITO, Surat, 166 J M Financial and Investment Consultancy Services Pvt. Ltd. v. ACIT, 167 Siemens Financial Writ Tax No. 1086 of 2022 (Allahabad High Court) R/Special CA No. 17321 of 2022 (High Court of Gujarat) WP No. 1050 of 2022 (High Court of Judicature at Bombay) Part G Services Pvt. Ltd. v. DCIT, 168 Geeta Agarwal v. ITO, 169 Ambika Iron and Steel Pvt Ltd v. PCIT, 170 Twylight Infrastructure Pvt Ltd v. ITO, 171 Ganesh Dass Khanna v. ITO, 172 and other judgments of the High Courts which relied on these judgments, are set aside to the extent of the observations made in this judgment.*

*116. The appeals filed by the Revenue are accordingly allowed. The appeals filed by the assesses will be governed by reasons discussed in this judgment.*

*117. The transfer petitions are disposed of.*

*118. Pending application(s), if any, stand disposed of.”*

8. Now examining the facts of the instant case in the light of ratio laid down by the Hon'ble Supreme Court *Union of India Vs. Rajeev Bansal (supra)*, I find that for the purpose of carrying out reassessment proceedings under the unamended Act prior to 01.04.2021, notice u/s.148 of the Act was issued on 30.06.2021. However, since amendment was brought into Act from 01.04.2021 substituting the new provisions for issue of notice u/s.148 r.w.s.148A, 148B of the Act which was further followed

by provisions of Taxation and Other Laws (Relaxation and Amendment of Certain provisions) Act, 2020 in short ['TOLA'] which was brought into on account of Covid-19 pandemic spread across the country during the year 2020-21. Further since various litigations across the country regarding validity of notice u/s.148 of the Act, Hon'ble Apex Court clubbing various judgments of Hon'ble High Courts in the Case of *Union of India Vs. Ashish Agrawal & others (2022) 444 ITR 1 (SC)* decided the issue but subsequently the issue was again taken up by Hon'ble Supreme Court in the case of *Union of India Vs. Rajeev Bansal (supra)* laying down certain guidelines which have been reproduced above. As per the judgment of Hon'ble Supreme Court *Union of India Vs. Rajeev Bansal (supra)*, it was held that if any notice u/s.148 of the Act under the unamended law has been issued after 01.04.2021 then it will be deemed to have been issued u/s.148A of the Act. In the instant case, even though the AO was having the period of four years from the end of relevant assessment year for reopening the assessment proceedings but since the notice u/s.148 of the Act was issued after 01.04.2021, the new and amended provisions effective from 01.04.2021 were applicable and in a case where the income escaped is less than Rs.50.00 lakhs the time limit for issuing notice u/s.148 of the Act was three years.

9. Now in the case of assessee, first notice u/s.148 was issued on 30.06.2021. Subsequently Hon'ble Apex Court in the case of *Ashish Agrawal (supra)* has given certain directions as a result of which firstly it was held that the notice issued u/s.148 between 01.04.2021 to 30.06.2021 as per the unamended law are deemed as show cause notice u/s.148A(b) as per the amended law. Thereafter, the Hon'ble Apex Court in the case of *Union of India Vs. Rajeev Bansal (supra)* held that the period upto 30.06.2021 is covered by TOLA. The Hon'ble Court in case of *Rajeev Bansal (supra)* further referring to the fifth proviso to section 149 held that the period from 01.07.2021 to 03.05.2022 is deemed to have been stayed by the order of Hon'ble Apex Court in the case of *Ashish Agrawal (supra)* from the date of their issuance till the date of the decision in *Ashish Agrawal (supra)*, i.e. 04.05.2022.

10. The Hon'ble Apex Court in the case of *Ashish Agrawal (supra)* has also directed the AO to provide relevant information and material relied upon by the Revenue to the assessee within 30 days from the date of the judgment. Applying the ratio, Ld. AO in the instant case was required to provide the information to the assessee latest by 03.06.2022 and within this time limit itself, letter was issued by the AO to the assessee on 28.05.2022. Now once the amended deemed provisions of section 148A has come into action as laid down by the Hon'ble Apex Court in the case of

*Ashish Agrawal (supra)* , all the further course of action needs to be adhered as per the provisions of section 148A of the Act. After the letter was issued to the assessee on 28.05.2022, assessee was required to reply within a period not exceeding 30 days to which necessary compliance was made and reply was filed by the assessee on 15.06.2022 followed by Notices issued by Ld. AO u/s.148A(d) and 148 of the Act on 29.07.2022.

11. Now comes the issue of surviving time left with the AO to issue notice u/s.148A(d) as well as section 148 of the Act as per the amended law. The Ld. Counsel for the assessee in the instant case has argued that the surviving time has to be calculated by computing the days between the date of issuance of notice u/s.148 of the Act under the unamended Act and 30.06.2021. Ld. Counsel for the assessee has referred to the example given at para 112 of the judgment of Hon'ble Apex Court in the case of *Rajeev Bansal (supra)* where the notice was issued on 01.05.2021 and the surviving time was calculated for 61 days to issue a notice u/s.148 of the amended law. The plea of the assessee is that since the notice in the case of assessee was issued on 30.06.2021, there was no surviving time left with the AO. It seems that Ld. Counsel for the assessee has merely taken the facts of the example given by Hon'ble Apex Court in the case of *Rajeev Bansal (supra)* and has applied the dates of his own case

on that example, without understanding the principle laid down by the Hon'ble Court. If this plea of the assessee is considered, then all the further proceedings carried out in the instant case after 28.05.2022 would become redundant. In my view, this is not the right interpretation by the ld. Counsel for the assessee of the ratio laid down by the Hon'ble Apex Court in the case of *Rajeev Bansal (supra)*.

12. A perusal of section 148A(d) of the Act provides that once the assessee has replied to the letter issued u/s.148A(b) of the Act, then the ld. AO has to 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 u/s.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) of section 148A of the Act is received by him or whether 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. So considering the date of reply filed by the assessee on 15.06.2022, one month from the end of the month June 2022 is 31.07.2022, and this is the last date before which the AO could issue notice u/s.148. Perusal of record indicates that the AO passed the order u/s.148A(d) of the Act on 29.07.2022 and has also issued notice u/s.148 on 29.07.2022,

i.e. well within the prescribed time limit. These facts indicate that a valid notice u/s.148 of the Act has been issued for carrying out the reassessment proceedings. To conclude, I find that as per the ratio laid down by the Hon'ble Supreme Court in the case of *Rajeev Bansal (supra)*, Ld. AO has issued a valid notice u/s.148 of the Act and therefore the legal ground raised by the assessee in Ground No.2 ( 2.1 to 2.4) challenging the validity of Notice issued u/s.148 of the Act is hereby dismissed.

13. Now coming to the merits raised in Ground No.3 (3.1 to 3.4), I find that the assessee filed a declaration under the Income Declaration Scheme, 2017 [in short 'IDS] and tax payable by the assessee was Rs.5,22,629/-. However, the assessee at that point of time was having two PAN numbers. In the application filed for the IDS, the assessee mentioned the Old PAN No. ACVPR9382B whereas the PAN Number regularly used by the assessee for filing the income-tax return was ABKPR1119C. Now the mistake committed by the assessee was on account of payment of tax partly in the old PAN Number and partly in the New PAN Number. The assessee deposited Rs.3,91,973/- (Rs.1,30,657 + Rs.2,61,316) on 27.03.2017 and 28.09.2017 quoting PAN No.ACVPR9382B in the income-tax challan but the remaining amount of Rs.1,30,657/- was inadvertently deposited in the old PAN No. AVKPR1119C on 30.11.2016 and the same was not

considered by the Revenue authorities. The Income-tax department did not accept the assessee's application under IDS for shortfall in payment. The assessee has placed copies of both the PAN Numbers and prima-facie it remains an undisputed fact that total tax liability of Rs.5,22,629/- as mentioned in the IDS declaration has been deposited and the assessee is eligible to get the benefit of the IDS. However, since the ld. AO had not examined this fact of tax payment under the old PAN number, I restore the issue to the AO for necessary verification and if it is found in order that the assessee has duly deposited total tax liability of Rs.5,22,629/- for becoming eligible to avail the benefit of IDS, then the assessee be given necessary relief and authorities concerned shall issue the certificate to assessee under the IDS. Thus Ground No. 3 (3.1 to 3.4) raised by the assessee are allowed for statistical purposes.

14. Remaining grounds being general in nature need no adjudication.

15. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced on this 04<sup>th</sup> day of December, 2024.

Sd/-  
**(MANISH BORAD)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 04<sup>th</sup> December, 2024.  
*Satish*

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “SMC” बेंच,  
पुणे / DR, ITAT, “SMC” Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.