

**DIN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH  
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.3509/Mum/2024  
(Assessment Year :2011-12)**

**&**

**ITA No.3510/Mum/2024  
(Assessment Year :2011-12)**

Shri Devang Ajit Jhaveri 22/23, Bharatiya Bhavan 72, N.S. Road Marine Drive Mumbai – 400 020	Vs.	JCIT Range 17(1) Mumbai
<b>PAN/GIR No.AAHPJ4783G</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

**ITA No.4497/Mum/2024  
(Assessment Year :2013-14)**

**&**

**ITA No.4498/Mum/2024  
(Assessment Year :2016-17)**

DCIT Range 17(1) Mumbai	Vs.	Shri Devang Ajit Jhaveri 22/23, Bharatiya Bhavan 72, N.S. Road Marine Drive Mumbai – 400 020
<b>PAN/GIR No.AAHPJ4783G</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Vinod Bindal
Revenue by	Shri R.R. Makwana
<b>Date of Hearing</b>	<b>22/01/2025</b>
<b>Date of Pronouncement</b>	<b>29/01/2025</b>

**आदेश / O R D E R****PER AMIT SHUKLA (J.M):****ITA NO.3509/Mum/2024 & 3510/Mum/2024**

The aforesaid appeals have been filed by the assessee against separate order of even date 02/07/2024, passed by NFAC, Delhi in relation to the penalty proceedings u/s.271D and 271E.

2. In grounds of appeal the assessee has challenged the levy of penalty of Rs.42,50,000/- u/s.271D and Rs.34,50,000/- u/s.271E. Further, assessee has raised various additional grounds, wherein he has challenged the validity of assessment passed u/s.147 on the ground that same should have been passed u/s.153C and there was no addition made on the quantum proceedings, however, penalty has been initiated for violation of Section 269SS and 269T. **Further, assessee has also challenged that penalty order dated 11/03/2020 both for 271D and 271E is barred by limitation u/s.275(1)(c).** Since issue of limitation has been challenged that penalty levied by the ld. JCIT on 11/03/2020 itself is barred by limitation therefore, same is being taken up first.

3. The brief facts qua the issue are that assessment order u/s. 143(3) r.w.s. 147 was completed vide order dated 28/12/2018. During the course of re-assessment proceedings ld. Assessing Officer noted that the assessee has accepted cash loan to the

tune of Rs.42.50 Lakhs and has repaid back the loan Rs.34.50 lakhs in cash during the year and thereby, violating the provision of Section 269SS and 269T. Accordingly, he initiated the penalty and made a reference to his range head (i.e. JCIT) for initiation of penalty and leviable u/s.271D and 271E respectively. The exact observation of the ld. Assessing Officer is as under:-

“6. Initiation of Penalty proceedings u/s. 271D & 271E

*As discussed above, the assessee has accepted cash loans to the tune of Rs.42.50 lakhs and repaid Rs.34.50 lakhs in cash during the year, thereby violating the provisions of section 269SS & 269T respectively. Hence, reference is being made to the Range Head for initiation of penalty leviable under section 271D & 271E respectively.”*

4. Thereafter, ld. Assessing Officer wrote a letter, almost after more than 9 months, i.e., on 17/09/2019 for making a reference for initiation of penalty for violation of u/s.269SS and 269T. Accordingly, ld. JCIT issued notice on 26/09/2019 and passed the penalty order on 11/03/2020. Accordingly, it has been stated that in terms of Section 275(1)(c), the penalty levied by the ld. JCIT is barred by limitation.

5. After considering the rival submissions and on perusal of the facts on record, as noted above, the ld. Assessing Officer in his order passed u/s.143(3) r.w.s. 147 dated 28/12/2018 has noted the violation of acceptance of cash loans of Rs.42.50 lakhs and repayment of loan of Rs.34.50 lakhs during the year. Such finding was given in the assessment order and ld. Assessing Officer after recording his satisfaction had initiated the proceedings and made a reference to the range head i.e. JCIT for

initiation and levy of penalty. Thus, the initiation happened during the course of proceeding i.e. assessment proceedings u/s.147 r.w.s. 143(3).

6. Section 275(1) states that \_\_

*“275. (1) No order imposing a penalty under this Chapter shall be passed:*

*a).....*

*b).....*

*c) in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.”*

7. Ergo, if the case does not fall in Clause a) & b) of Section 275, then penalty order has to be passed within the financial year in the course of which action for the imposition of penalty has been initiated and completed; or within six months from the end of the month in which action for the imposition of penalty was initiated. Here in this case, order imposing the penalty has been passed on 11/03/2020 which is not only more than expiry of financial year from the proceeding in the course of which imposition of penalty was initiated, i.e., assessment proceedings completed on 28/12/2018; and the six months had also expired from the said date. What is relevant here is the phrase, *firstly*, **‘the proceedings’**, and *secondly*, **‘in the course of which initiation of action for imposition of penalty’**. This does not mean imposition of penalty itself. There has to be some kind

proceedings under the Act in which the grounds for initiation of penalty are found or satisfaction is arrived or forms the basis for initiation of penalty. It is from these proceedings of initiation of action for imposition of penalty, the time for limitation starts ticking. In cases of penalties u/s 271D or 271E, it is the AO who first possibly notice the violation under section 269SS or 269T during the course of assessment proceedings and then only competent authority like JCIT or Addl. CIT are authorised to impose penalty. Thus, there are two time limit envisaged in section 275, one, before the expiry of the financial year in the course of proceedings in which action for the imposition of penalty has been initiated; or second six months from the end of the month in which action for imposition of penalty is initiated. In both scenarios, first time limit has expired on 31/03/2019 and second, i.e., six months has expired on 30/06/2019. Here the order has been passed on 11/03/2020 which clearly is barred by limitation.

8. This issue now stands covered by the various decisions including that of the **Hon'ble Delhi High Court in the case of PCIT vs. Rishikesh Buildcon (P) Ltd.** reported in **147 taxmann.com 220 (Delhi)** wherein the Court has followed various other judgments to decide the precise issue of limitation in the case of penalty u/s 271D and 271T. The Hon'ble High Court has even taken note of the contention of the Revenue which has also been raised before us that date of issuance of show-cause notice should be the relevant point. in this regard

the Hon'ble High Court disagreed with such contention after observing and holding as under:-

8. *The contention of the learned senior standing counsel for the Revenue that the date of the issuance of the SCNs would be the relevant starting point i.e., 24th March, 2009, was specifically noted and rejected by this Court in the Mahesh Wood Products (P.) Ltd. (supra). The relevant portion of the said judgment reads as follows:—*

*"7. Mr. Sanjay Kumar, learned counsel for the Revenue has sought to place reliance on the decision of this Court in Commissioner of Income-tax (TDS) v. IKEA Trading Hong Kong Ltd., [2011] 333 ITR 565 (Del) to urge that it is the date of issuance of the Show Cause Notice ('SCN') that would be the relevant starting point. Accordingly he submits that the date of issuance of the SCN by the ACIT being 28 August, 2012, limitation would expire on 28 February, 2013. Therefore, the penalty orders having been passed on 26 February, 2013 would not be barred by limitation. He also sought to distinguish the decision of this Court in PCIT-5 v. JKD Capital & Finlease Ltd. (supra) by stating that in the said case, the gap between the intimation sent by the AO recommending initiation of penalty proceedings and the action taken by the ACIT was nearly five years, whereas in the present case, it was slightly over one month.*

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9. *However, this question came up for consideration in PCIT v. JKD Capital & Finlease Ltd. (supra). The date on which the AO recommended the initiation of penalty proceedings was taken to be the relevant date as far as section 275(1)(c) was concerned. There was no explanation for the delay of nearly five years in the ACIT acting on the said recommendation. The Court held that the starting point would be the 'initiation' of penalty proceedings. Given the scheme of section 275(1)(c) it would be the date on which the AO wrote a letter to the ACIT recommending the issuance of the SCN. While it is true that the ACIT had the discretion whether or not to issue the SCN, if he did decide to issue a SCN, the limitation would begin to run from the date of letter of the AO recommending 'initiation' of the penalty proceedings."*

9. The legal principle for determining the date of initiation of penalty proceedings has been settled by the predecessor bench of this Court in its decision of *JKD Capital & Finlease Ltd.* (*supra*) which reads as under: -

"2...While finalising the assessment order dated December 28, 2007 the Assessing Officer ("the AO") in the concluding paragraph issued a direction to initiate proceedings against the assessee under sections 271(1)(c) and 271E of the Act. Admittedly, under section 271E(2) of the Act, any penalty under section 271E(1) can only be imposed by the Joint Commissioner of Income-tax ("the Joint CIT"). Consequently, the Assessing Officer referred the matter to the Additional Commissioner of Income-tax.

3. A perusal of the order dated March 20, 2012, of the Additional Commissioner of Income-tax shows that a show-cause notice initiating penalty proceedings under section 271E was issued to the assessee on March 12, 2012, requiring it to explain as to why penalty should not be levied on it under section 271E on account of violation or the provisions of section 269T of the Act. With the assessee having failed to furnish the required information, the Additional Commissioner of Income-tax proceeded to confirm the penalty in the sum of Rs. 17,90,000.

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6. Mr. Kamal Sawhney, learned senior standing counsel appearing for the Revenue, submitted that the Assessing Officer has no power to initiate the penalty proceedings under section 271E of the Act and it was only the Joint Commissioner of Income-tax who could have done so. Therefore, for the purpose of limitation under section 275(1) (c), the relevant date should be the date on which notice in relation to the penalty proceedings were issued. In the present case, as the Additional Commissioner of Income-tax issued notice to the assessee on March 12, 2012, the order of the Additional Commissioner of Income-tax passed on March 20, 2012, was within limitation.

7. We are unable to agree with the above submission of learned standing counsel for the Revenue. Section 275(1)(c) reads as under:

*"275. (1) No order imposing a penalty under this Chapter shall be passed...*

*(c) in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later."*

*8. In terms of the above provision, there are two distinct periods of limitation for passing a penalty order, and one that expires later will apply. One is the end of the financial year in which the quantum proceedings are completed in the first instance. In the present case, at the level of the Assessing Officer, the quantum proceedings was completed on December 28, 2007. Going by this date, the penalty order could not have been passed later than March 31, 2008. The second possible date is the expiry of six months from the month in which the penalty proceedings were initiated. With the Assessing Officer having initiated the penalty proceedings in December 2007, the last date by which the penalty order could have been passed is June 30, 2008. The later of the two dates is June 30, 2008.'*

*(Emphasis Supplied)*

*10. The contentions urged by the learned counsel for the Revenue in the present appeals are therefore reiteration of pleas which have been categorically rejected by the predecessor bench of this Court in the aforesaid judgments.*

*11. In the present appeals, a perusal of the assessment order(s) shows that the penalty proceedings were initiated by the AO in the assessment order(s) itself. Illustratively, the direction contained in the assessment order dated 17th December, 2008, pertaining to ITA No. 577/2018, Rishikesh Buildcon Pvt. Ltd. may be referred to, which reads as under:-*

*"... Initiate penalty proceedings u/s, 271(1)(c) for concealment of income & 271(1)(b) for non-compliance of statutory notices, & 271 D for violating the provisions of Section 269 SS as discussed above."*

*12. The predecessor bench of this Court in the aforesaid judgments has held that where the AO has initiated the penalty*

*proceedings in his/her assessment order, the said date is to be taken as the relevant date as far as the section 275(1)(c) of the Act is concerned. In these cases, the quantum proceedings were completed by the AO on 17th/18th December, 2008, and the AO initiated the penalty proceedings in December, 2008, thus, the last date by which the penalty order could have been passed is 30th June, 2009. The six months from the end of the month from which action of imposition of penalty was initiated would expire on 30th June, 2009. However, in this case, admittedly, the penalty order(s) were passed on 29th September, 2009, and therefore, the ITAT rightly concluded that the order(s) were barred by limitation.*

*13. Consequently, we answer the question of law against the Revenue and in favour of the Assessee by holding that, in the facts and circumstances of the present appeals, the ITAT was correct in law in deleting the penalty imposed by the Additional Commissioner of Income Tax, under section 271D of the Act, on the ground that the penalty order(s) dated 29th September, 2009, was passed beyond the time period prescribed by Section 275(1)(c) of the Act, the same having been passed after the lapse of six months from the end of the month in which the penalty proceedings were initiated by the AO.*

9. Similar view was reiterated by the Hon'ble Delhi High Court in the case of **PCIT vs. Thapar Homes Ltd. Reported in (2024) 159 taxmann.com 450 (Delhi)** and also by earlier by the **Hon'ble Calcutta High Court in the case of CIT vs. Narayani and Sons Pvt. Ltd., reported in (2016) 73 taxmann.com 21.** Thus, we hold that the penalty order dated 11/03/2020 is barred by limitation and accordingly, the penalty levied by the ld. JCIT is hereby quashed.

10. In the result, both the appeals of the assessee are allowed.

**ITA No.4497/Mum/2024**

11. The aforesaid appeal has been filed by the Revenue against order dated 05/07/2024 passed by NFAC, Delhi wherein Revenue has challenged the deletion of addition of Rs.55,00,000/- on which the tax effect is only Rs.43,76,213/-. Since the tax effect involved in disputed issue is less than the prescribed limit of Rs. 60,00,000/- vide CBDT Circular No.09/2024, dated 17-09-2024, therefore, appeal of the Revenue is dismissed as not maintainable on the ground of low tax effect. Here in this case exception clauses are also not applicable.

**ITA No.4498/Mum/2024**

12. The aforesaid appeal has been filed by the Revenue against order dated 05/07/2024 passed by NFAC, Delhi for the quantum of assessment passed u/s.143(3) r.w.s. 147 for the A.Y. 2016-17.

13. In the grounds of appeal the Revenue has challenged the deletion of addition of Rs.2,24,00,000/- u/s. 69A.

14. The assessee on the other hand had stated that here in this case the notice issued u/s.148 is invalid because the mandatory requirement of seeking approval by the competent authority u/s.151 has been given by Id. PCIT which otherwise as per the new provision applicable w.e.f. 1-04-2021, the approval should have been given by PCCIT or CCIT if the notice is issued after the expiry of three years from the end of the assessment year. Before us, following chronology of events has been given on this issue:-

S. No.	Date	Particulars
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1	30/06/2021	First notice u/s 148 of the Act issued vide DIN: ITBA/AST/S/148/2021-22/1033871296(1) with the prior approval of necessary satisfaction u/s 151 of the Act of the Range 17(1) Mumbai as is mentioned in the notice itself.
2		Admittedly, no notice u/s 148 of the Act for this assessment year was issued up to 31/03/2021
3	30/05/2022	Notice u/s 148A(b) of the Act issued vide DIN: ITBA/COM/F/17/2022-23/1043253369(1) to be replied within two weeks, (date mentioned in para 4 page 2 as per 148A(d)).
4	13/06/2022	No response filed to the above SCN
5	30/07/2022	Order passed u/s 148A(d) of the Act vide DIN: ITBA/COM/F/17/2022-23/1044337364(1) with the prior approval of specified authority but without mentioning which of the two as none is mentioned thereon.
6	30/07/2022	However, the notice u/s 148 of the Act was issued vide DIN: ITBA/AST/M/148 1/2022--23/1044354949(1) on 30/07/2022 with the prior approval of the PCIT-2, Mumbai u/s 151 of the Act vide reference letter no. PCIT-2/Approval u/s148A(d)/2022-23 dated 28.07.2022 as is mentioned in the notice u/s 148 of the Act dated 30/07/2022 and not from the PCCIT, Mumbai.

15. For the A.Y. 2016-17, finally notice u/s.148 has been issued on 30/07/2022 which as per the new provision which was applicable w.e.f. 01/04/2021, the specified authority for the purpose of Section 148 and Section 148A, if the notice has been issued beyond the period of three years from the end of the relevant assessment year, the approving authority is PCCIT or Director General or Chief Commissioner or Director General. Even though first notice u/s.148 was issued on 30/05/2021, however, as held by the **Hon'ble Supreme Court in the case of Union of India vs. Rajeev Bansal & Others (2024) 167 taxmann.com 70 (SC)**, the Hon'ble Supreme Court held that the authorities specified u/s.151(i) of the new regime is applicable and the prior approval must be obtained from the appropriate authority specified u/s.151 of the new regime if the alleged income escaping assessment is more than Rs.50,00,000/-.

16. In para 75, the Hon'ble Apex Court has specifically held that in terms of Ashish Aggarwal judgment after 01/04/2021, the prior approval must be obtained from the appropriate authorities specified u/s 151 of the new regime and where the alleged income escaping assessment is more than Rs 50 lakhs for an assessment year after lapse of 3 years then a reassessment notice could only be issued after obtaining prior approval of PCCIT. Relevant para is reproduced here under:-

*"75. After 1 April 2021, the new regime has specified different authorities for granting sanctions under Section 151. The new regime is beneficial to the assessee because it specifies a higher level of authority for the grant of sanctions in comparison to the old regime. Therefore, in terms of Ashish Agarwal (supra), after 1 April*

2021, the prior approval must be obtained from the appropriate authorities specified under Section 151 of the new regime. The effect of Section 151 of the new regime is thus:

(i) If income escaping assessment is less than Rupees fifty lakhs: (a) a reassessment notice could be issued within three years after obtaining the prior approval of the Principal Commissioner, or Principal Director or Commissioner or Director; and (b) no notice could be issued after the expiry of three years; and

(ii) If income escaping assessment is more than Rupees fifty lakhs: (a) a reassessment notice could be issued within three years after obtaining the prior approval of the Principal Commissioner, or Principal Director or Commissioner or Director; and (b) after three years after obtaining the prior approval of the Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General."

17. Further, in para 76 the Hon'ble Apex Court has specifically held that grant of sanction by the appropriate authority is a precondition for ld.AO to assume jurisdiction u/s 148 of the Act to issue a reassessment notice. Hon'ble Apex Court further states that section 151 of the Act links up the time limits with the jurisdiction of the authority to grant sanction. Section 151(ii) of the new regime prescribed high level of authority if more than 3 years have elapsed from the end of the assessment year. The para reads as under:-

"76. Grant of sanction by the appropriate authority is a precondition for the assessing officer to assume jurisdiction under Section 148 to issue a reassessment notice. Section 151 of the new regime does not prescribe a time limit within which a specified authority has to grant sanction. Rather, it links up the time limits with the jurisdiction of the authority to grant sanction. Section 151(ii) of the new regime prescribes a higher level of authority if more than three years have elapsed from the end of the relevant assessment year. Thus, non-compliance by the

*assessing officer with the strict time limits prescribed under Section 151 affects their jurisdiction to issue a notice under Section 148."*

18. It has further been directed therein that non-compliance by the AO with the strict time limit prescribed u/s 151 of the Act effects assumption of jurisdiction by him to issue notice u/s 148 of the Act. In para 81, the Hon'ble Supreme Court also held as below:

*"81. This Court in Ashish Agarwal (supra) directed the assessing officers to "pass orders in terms of Section 148-A(d) in respect of each of the assesses concerned." Further, it directed the assessing officers to issue a notice under Section 148 of the new regime "after following the procedure as required under Section 148A." Although this Court waived off the requirement of obtaining prior approval under Section 148A(a) and Section 148A(b), it did not waive the requirement for Section 148A(d) and Section 148. Therefore, the assessing officer was required to obtain prior approval of the specified authority according to Section 151 of the new regime before passing an order under Section 148A(d) or issuing a notice under Section 148. These notices ought to have been issued following the time limits specified under Section 151 of the new regime read with TOLA, where applicable."*

19. Thus, it is clear that ld. AO was required to take prior approval from the specified authority according to Section 151 of the new regime before passing the order u/s.148A(d) on the issue of notice u/s.148A. These notices ought to have been issued following the time limit u/s.151 of the new regime. Therefore, in view of the law laid down by the Hon'ble Supreme Court, the impugned notice u/s.148 for the A.Y.2016-17 dated 30/07/2022 is beyond the period of three years from 31/03/2017 and therefore, it was incumbent to obtain the proper approval of

CCIT or PCCIT and here admittedly, the approval has been taken by PCIT and therefore, in terms of Section 151, the notice itself is bad in law and consequently, the entire re-assessment proceedings renders *void ab initio*.

20. Apart from that, it has been stated that the notice itself is barred by limitation in terms of judgment of Rajeev Bansal (supra) wherein the Hon'ble Court has laid down the permissible time limit to issue notice u/s.148 and in this regard our attention was also drawn to paragraphs 110, 111,112 and 114. For sake of ready reference these paras are reproduced hereunder:-

*"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 1494(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, as clock started ticking, the assessing officer was required to complete these procedures within the surviving time limit. The surviving time limit to issue the reassessment notices under Section 148 of prescribed under the Income Tax Act read with TOLA, was available to the assessing new officers the 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.

114. [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.”

21. Further, lastly in para 113 of the said judgment it has been observed and held as under:-

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: (1) 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."*

22. If we apply the aforesaid law laid down by the Hon'ble Supreme Court, then here in this case the time limit to issue notice u/s 148 had expired and this has been explained on the basis of the following dates:-

Assessment year	2016-17
Last date to issue notice u/s 148 as per old Law-6 years	30-06-2021
Extended deadline to issue notice u/s 148 as per TOLA and notifications issued	30-06-2021
Notice actually issued under old law in the present case	30-06-2021
Date of Supreme Court's order in Ashish Agarwal	04-05-2022
Date of notice u/s 148A(b) in pursuance of Ashish Agarwal in present case	30-05-2022
Time limit to file reply -14 days	13-06-2022

Reply filed by assessee	No reply filed
Time excluded per Rajeev Bansal	30-06-2021 to 13-06-2022
Time that was available/ left to issue notice u/s 148 as per TOLA limit	NIL- - 30-06-2021 to 30-06-2021
Extended time to be given as per fourth Proviso to section 149(1)	7 days from 13-06-2022, i.e. 20/06/2022 and if one goes by the date of filing reply on 13-06-2022,
Time limit to issue notice u/s 148 as per section 149 as amended by Finance Act 2021 and per Raieev Bansal	20-06-2022, i.e., 7 days from 13-06-2022 or at the most 30-06-2022.
Actual date of Notice u/s 148	30/07/2022

Thus, at the outset, we find that the notices issued u/s.148 dated 30/07/2022 is clearly barred by limitation.

23. Thus, the Hon'ble Apex Court has categorically held as above that to assume jurisdiction to issue notice u/s 148 of the Act, the Id. AO has to issue notice within the period prescribed u/s 149(1) of the new regime with TOLA besides obtaining previous approvals from the competent specified authority u/s 151 of the Act. It has also been stated therein that a notice issued without complying with the pre conditions as above is invalid and is time barred. Accordingly, we hold that impugned notices fail on both the accounts and the impugned assessment order passed is *void*

*ab initio* and grounds of assumption of jurisdiction and the same was quashed.

24. In the result, appeal of the Revenue is dismissed on aforesaid terms.

**25. In the result, appeals of the assessee are allowed and appeals of the Revenue are dismissed.**

Order pronounced on 29<sup>th</sup> January, 2025.

**Sd/-  
(GIRISH AGRAWAL)  
ACCOUNTANT MEMBER**

Mumbai; Dated 29/01/2025  
KARUNA, *sr.ps*

**Sd/-  
(AMIT SHUKLA)  
JUDICIAL MEMBER**

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

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BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**