

आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर
IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR
श्री रविश सूद, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्य के समक्ष ।
BEFORE SHRI RAVISH SOOD, JM & SHRI ARUN KHODPIA, AM

आयकर अपील सं. / ITA No: 29 & 30/RPR/2025
(निर्धारण वर्ष Assessment Year: 2014-15, 2015-16)

Deputy Commissioner of Income Tax-1(1), Aayakar Bhawan, Civil Lines, Raipur-492001, C.G.	V s	Shri Vinay Agrawal, Baleshwar Road, Mahasamund, 493445, C.G.
PAN: ACJPA4869N		

CO No. 2 & 3/RPR/2025
(Arises out of ITA No: 29 & 30/RPR/2025)

Shri Vinay Agrawal, Baleshwar Road, Mahasamund, 493445, C.G.	V s	Deputy Commissioner of Income Tax-1(1), Aayakar Bhawan, Civil Lines, Raipur-492001, C.G.
PAN: ACJPA4869N		
(अपीलार्थी/Appellant)	.	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri R. B. Doshi, CA
राजस्व की ओर से /Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	13.02.2025
घोषणा की तारीख/Date of Pronouncement	:	17.02.2025

आदेश / ORDER

Per bench:

The captioned appeals filed by the revenue and the cross objections by the assessee are instituted against the orders of Commissioner of Income Tax (Appeals), NFAC, Delhi, u/s 250 of the Income Tax Act (in short "the Act"), for the Assessment Year 2014-15 and

2015-16, both dated 05.11.2024, which in turn arises from the order of Income Tax Officer, Assessment Unit, Income Tax Department (in short "Ld. AO") u/s 147 r.w.s. 144B of the Act, both dated 25.05.2023.

2. The ground of appeal raised by the revenue and grounds of Cross Objections by the assessee are as under:

Grounds of Appeal in ITA No. 29/RPR/2025 (AY 2014-15):

1. *"Whether on the facts and in the circumstance of the case, the Id. CIT(A) was justified in restricting the additions made by the AO on account of bogus purchases to Rs.4,51,400/- and thereby allowing a relief of Rs.86,86,100/- relying upon the decision of ITAT Raipur in case of M/s Gopal Rice Industries vs. ITO In ITA No. 62& 74/RPR/2020 for the Asstt. Year 2014-15, without going to the merits of the case?"*
2. *"Whether on the facts and in the circumstance of the case Id. CIT(A) was justified in restricting the additions made by the AO on account of bogus purchases to Rs.4,51,400/- and thereby allowing a relief of Rs.86,86,100/- by applying GP @8% instead of entire bogus purchase?"*
3. *"Whether on the facts and in the circumstance of the case Id. CIT(A) has erred in deciding the appeal in favour of the appellant, failed to allude to relevant facts on record, misread the evidence and its probative value thereby giving rise to perversity in the order of Id. CIT(A), which itself gives rise to Question of Law as held in several case laws including the case of Sudarshan Silk and Sarees 300 ITR 205 (SC)?"*
4. *The order of the CIT(A) is erroneous both in law and on facts.*
5. *Any other ground which may be adduced at the-time of hearing.*

Grounds of Cross Objection in ITA No. 02/RPR/2025 (Arising out of ITA No.

29/RPR/2025):

1. *Ld. CIT(A) erred in confirming addition of Rs.4,51,400/- out of addition of Rs. 91,37,500/- made by AO on account of alleged bogus purchases from certain parties. The addition made by AO & confirmed by Ld. CIT(A) is illegal, arbitrary & not justified.*
2. *Without prejudice to above, notice u/s 148 issued by AO and consequent reassessment order passed by AO is illegal and bad in law.*
3. *The respondent reserves the right to add, amend or alter any of the ground/s of cross objection.*

Grounds of Appeal in ITA No. 30/RPR/2025 (AY 2015-16):

1. *"Whether on the facts and in the circumstance of the case, the Id. CIT(A) was justified in deleting the additions made by the AO to the tune of Rs.1,49,23,907/- on account of bogus purchases relying upon the decision of ITAT Raipur in case of M/s Gopal Rice Industries vs. ITO In ITA No. 62& 74/RPR/2020 for the Asstt. Year 2014-15, without going to the merits of the case?"*
2. *"Whether on the facts and in the circumstance of the case Id. CIT(A) was justified in deleting the additions made by the AO to the tune of Rs. 1,49,23,907/- by applying GP @8% instead of entire bogus purchase?"*
3. *"Whether on the facts and in the circumstance of the case Id. CIT(A) has erred while deciding the appeal in favour of the appellant, failed to allude to relevant facts on record, misread the evidence and its probative value thereby giving rise to perversity in the order of Id. CIT(A), which itself gives rise to Question of Law as held in several case laws including the case of Sudarshan Silk and Sarees 300 ITR 205 (SC)?"*
4. *The order of the CIT(A) is erroneous both in law and on facts.*
5. *Any other ground which may be adduced at the-time of hearing.*

Grounds of Cross Objection in ITA No. 03/RPR/2025 (Arising out of ITA No. 30/RPR/2025):

1. *Ld. CIT(A) erred in confirming addition of Rs.10,99,243/- out of addition of Rs. 1,60,23,150/- made by AO on account of alleged bogus purchases from certain parties. The addition made by AO & confirmed by Ld. CIT(A) is illegal, arbitrary & not justified.*
2. *Without prejudice to above, notice u/s 148 issued by AO and consequent reassessment order passed by AO is illegal and bad in law.*
3. *The respondent reserves the right to add, amend or alter any of the ground/s of cross objection.*

3. Since the aforesaid two appeal pertains to the same assessee, involving therein similar facts and issues, which are interconnected, common and identical in nature, except the quantum of addition, therefore, these appeals are heard together and taken up for adjudication under this common order.

4. For the sake of deliberation, **ITA No. 29/RPR/2025** and **CO No. 2/RPR/2025** for the AY 2014-15, are taken up as the lead cases, wherein our discussions, observations and decisions *qua* the common issues involved therein, shall apply *mutatis mutandis* to the remaining appeal / CO.

5. Brief facts of the case are that the assessee is an individual has filed his Return of Income (ROI) for the AY 2014-15, declaring total income at Rs. 9,95,120/- on 30.09.2014. Since, the department has information in the case of assessee that certain income had escaped assessment, therefore, a notice/SCN u/s 148A(b) of the Act, was issued along with information for explanation of such information. However, in response, the assessee had not furnished any reply. Subsequently, an order u/s. 148A(d) is passed after taking prior approval of appropriate/ competent authority and the notice u/s 148 of the IT Act was issued. In compliance to aforesaid order and notice, assessee furnished ROI. Subsequently, in the course of assessment assessee had submitted requisite information pertaining to purchases carried out during the year under consideration. The submissions of assessee are considered by the Ld. AO but not found satisfactory, accordingly, after conducting necessary enquiries from AIR/CIB and 360 Degree profile of the assessee, Ld. AO revealed that during the year under consideration the assessee has taken accommodation entries in the form of bogus purchase amount to Rs.91,37,500/- from various concerns against which no explanation could have been furnished by the assessee. Accordingly, the expenditure in the form of bogus purchase, thereby reducing the profit of the assessee was added back to the income of assessee and after the aforesaid addition the assessed income of the assessee is determined at Rs.1,04,12,220/-.

6. Aggrieved by aforesaid additions by the Ld. AO, assessee preferred an appeal before the Ld. CIT(A), wherein Ld. CIT(A) had taken a different stand towards the purchases made by the assessee and had estimated profit on the amount of bogus purchases @ 8% which comes to Rs.7,31,000/- (8% of Rs.91,37,500/-) and the extra profit shown by the assessee in the return filed in response to notice u/s 148 for Rs.2,79,600/- was reduced from the aforesaid estimated profit, accordingly, the addition of Rs.4,51,400/- (7,31,000 – 2,79,600) was sustained by the Ld. CIT(A) and the appeal of assessee is partly allowed.

7. Against the aforesaid relief granted by the Ld. CIT(A), the department is in appeal to challenge the justification of relief granted for Rs. 86,86,100/-, whereas the assessee is in cross objection against the confirmation of addition for Rs.4,51,400/- sustained by the Ld. CIT(A).

8. At the threshold of the hearing, Shri R. B. Doshi, CA, Authorized Representative of the assessee (in short “Ld. AR”), submitted that the notice u/s 148 issued in the present case is barred by limitation, therefore, the ground of Cross Objection No. 2, wherein the reassessment order is challenged by the assessee, may be taken first for adjudication.

9. It is also submitted by the Ld. AR that as per the facts and dates of events in the present case, notice u/s 148 was issued beyond the prescribed time permitted by the law, therefore, the case of assessee is squarely covered by the decision of this Tribunal in the case of **Kachrulal Jitendra Kumar Vs. ITO in ITA No. 307/RPR/2024 for the AY 2014-15 vide order dated 05.02.2025**, wherein the relevant observations of the tribunal on the issue, are extracted as under:

13. Apropos the validity of the jurisdiction that was assumed by the AO for framing the impugned assessment, the Ld. AR submitted that as the notice u/s. 148 of the Act, dated 25.07.2022 is barred by limitation, therefore, the consequential assessment order passed by the A.O u/s. 147r.w.s. 144B of the Act, dated 29.04.2023 cannot be sustained and is liable to be quashed on the said count itself. Elaborating further on his contention, the Ld. AR had taken us through a "Chart", as per which, notice u/s. 148 of the Act, dated 25.07.2022 in the case of the assessee firm could have been issued latest by 16.06.2022. The Ld. AR submitted that as the notice u/s. 148 of the Act had been issued by the A.O on 25.07.2022 i.e. much after 16.06.2022, therefore, the same being barred by limitation was invalid.

14. Apropos the aforesaid issue, Dr. Priyanka Patel, Ld. Sr. Departmental Representative (for short 'DR'), submitted that as the A.O had validly assumed jurisdiction and framed the assessment vide his order passed u/s. 147 r.w.s. 144B of the Act, dated 29.04.2023, therefore, no infirmity did emanate from his order.

15. Before proceeding any further, we deem it fit to cull out the substitution of the scheme of the assessment under section 147 to 151 of the Act, as had been made available on the statute vide the Finance Act, 2021 w.e.f. 01.04.2021, along with the scope of the said amendments as had been looked into by the Hon'ble Supreme Court in the backdrop of The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance Act, 2020.

16. *The Finance Act, 2021 had substituted the entire scheme of reassessment under Sections 147 to 151 of the Income Tax Act w.e.f 1st April 2021. Broadly speaking, the changes made available on the statute by the legislature in all its wisdom are, viz. (i) Section 148 now mandates the assessing officer to initiate proceedings only based on prior information and with the prior approval of the specified authority; (ii) Section 148A requires the A.O to provide an opportunity of being heard to the assessee before deciding to issue a reassessment notice u/s. 148 of the Act; (iii) Section 148A requires the A.O to, viz. (a) conduct any enquiry, if required, with the prior approval of the specified authority; (b) provide an opportunity of being heard to the assessee, with the prior approval of the specified authority; (c) consider the reply furnished by assessee, if any, in response to the show-cause notice; and (d) 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 of the Act by passing an order; (iv) Further, the time limit under Section 149 has been reduced from four years to three years from the end of the relevant assessment year for all situations. However, an exception has been carved out, as per which, an assessment can be reopened beyond three years but within ten years from the end of the relevant assessment year if the income chargeable to tax which has escaped assessment amounts to or is likely to amount to Rupees fifty lakhs or more; (v) The "1st proviso" to Section 149 prohibits the issuance of a reassessment notice under the new regime if such notice have become time-barred under the old regime; and (vi) the sanctioning authorities specified under Section 151 of the new regime are different from those specified under the old regime.*

17. *Also, Section 151 of the new regime specifies the following authorities for Sections 148 and 148A of the Act, viz. (i) Principal Commissioner or Principal Director or Commissioner or Director if three years or less have elapsed from the end of the relevant assessment year; and (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.*

18. *The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance Act, 2020 [for short "TOLA], had come into force with retrospective effect from March 31, 2020. Section 3(1) of TOLA extended the time limit for completion of actions or compliances under the "Specified Act", which fell for completion or compliance during the period from March 20, 2020 to March 31 2021. Section 3(1) of the TOLA empowered the Central Government to extend the time limit beyond 31st March, 2021 by a notification. In pursuance of its powers, the Central*

Government issued Notifications to extend the period of relaxation till June 30, 2021. The effect of TOLA, 2020 and the notifications issued under the legislation was that, viz. (i) if the time prescribed for passing of any order or issuance of any notice, sanction, or approval fell for completion or compliance from March 20, 2020 to March 31, 2021; and (ii) if the completion or compliance of such action could not be made during the stipulated period, then, the time limit for completion or compliance of such action was extended to June 30, 2021. Accordingly, the TOLA, 2020 provided for a relaxation of the time limit for issuing reassessment notice u/s.148 of the Act.

19. *As the notifications dated March 31, 2021 and April 27, 2021 issued by the Central Government under Section 3(1) of TOLA, 2020 contained an explanation declaring that the provisions under the old regime shall apply to the reassessment proceedings initiated under them, therefore, the A.Os had accordingly issued reassessment notices between April 1, 2021 and June 30, 2021 by relying on the provisions under Section 148 of the old regime. These reassessment notices issued between April 1 2021 and June 30, 2021 under the old regime were challenged by the assessee's before various High Courts, which quashed the same for the reasons, viz.(i) Sections 147 to 151 stood substituted by the Finance Act, 2021 from April 1, 2021; (ii) that in the absence of any saving clause, the department could initiate reassessment proceedings after April 1, 2021 only in accordance with the provisions of the new regime since they were remedial, beneficial, and meant to protect the rights and interests of the assesseees; and (iii) the Central Government could not exercise its delegated authority to re-activate the pre-existing law.*

20. *Thereafter, the Hon'ble Apex Court in the case of Union of India & Ors Vs. Ashish Agrawal, (2022) 444 ITR 1 (SC), to resolve the multi-facet controversies that had cropped up inter-se the assesseees and the department, had held, that it was in complete agreement with the view taken by the various High Courts in holding that the benefit of the new provisions shall be made available even in respect of proceedings relating to the past assessment years, provided Section 148 notice was issued on or after 01-4-2021. However, the Court in order to balance the interests of the Revenue and the assessee exercised its discretionary jurisdiction under Article 142 of the Constitution of India and directed that the reassessment notices issued under the old regime shall be deemed to have been issued under Section 148A(b) of the new regime. Further, it was provided that the A.O shall within 30 days provide to the respective assesseees, the information and material relied upon by the department, so that the assessee's could reply to the show-cause notices within two weeks thereafter. The requirement of conducting any enquiry, if*

required, with the prior approval of specified authority u/s.148A(a) was hereby dispensed with as a one-time measure vis-à-vis those notices which had been issued u/s. 148 of the un-amended Act from 01-4-2021 till date, including those which was quashed by the High Courts. It was directed that the A.Os shall thereafter pass orders in terms of Section 148A(d) in respect of each of the assesseees concerned and, thereafter, following the procedure as required u/s.148A of the Act, they may issue notice u/s.148 of the Act. For the sake of clarity, the observations of the Hon'ble Apex Court in the case of Union of India Vs. Ashish Agrawal (supra), wherein the notices issued by the department u/s. 148 of the Act, as per the old regime were to be treated as "Show Cause Notices" issued u/s. 148A(b) of the Act, are culled out as under:

"8. However, at the same time, the judgments of the several High Courts would result in no reassessment proceedings at all, even if the same are permissible under the Finance Act, 2021 and as per substituted sections 147 to 151 of the IT Act. The Revenue cannot be made remediless and the object and purpose of reassessment proceedings cannot be frustrated. It is true that due to a bonafide mistake and in view of subsequent extension of time vide various notifications, the Revenue issued the impugned notices under section 148 after the amendment was enforced w.e.f. 01.04.2021, under the unamended section

148. In our view the same ought not to have been issued under the unamended Act and ought to have been issued under the substituted provisions of sections 147 to 151 of the IT Act as per the Finance Act, 2021. There appears to be genuine non-- application of the amendments as the officers of the Revenue may have been under a bonafide belief that the amendments may not yet have been enforced. Therefore, we are of the opinion that some leeway must be shown in that regard which the High Courts could have done so. Therefore, instead of quashing and setting aside the reassessment notices issued under the unamended provision of IT Act, the High Courts ought to have passed an order construing the notices issued under unamended Act/unamended provision of the IT Act as those deemed to have been issued under section 148A of the IT Act as per the new provision section 148A and the Revenue ought to have been permitted to proceed further with the reassessment proceedings as per the substituted provisions of sections 147 to 151 of the IT Act as per the Finance Act, 2021, subject to compliance of all the procedural requirements and the defences, which may be available to the assessee under the substituted provisions of sections 147 to 151 of the IT Act and which may be available under the Finance Act, 2021 and in law. Therefore, we propose to modify the judgments and orders passed by the respective High Courts as under:

(i) The respective impugned section 148 notices issued to the respective assesseees shall be deemed to have been issued under section 148A of the IT Act as substituted by the Finance Act, 2021 and treated to be show cause notices in terms of section 148A(b). The respective assessing officers shall within thirty days from today provide to the assesseees the information and material relied upon by the Revenue so that the assesseees can reply to the notices within two weeks thereafter;

(ii) *The requirement of conducting any enquiry with the prior approval of the specified authority under section 148A(a) be dispensed with as a onetime measure vis à vis those notices which have been issued under Section 148 of the unamended Act from 01.04.2021 till date, including those which have been quashed by the High Courts;*

(iii) *The assessing officers shall thereafter pass an order in terms of section 148A(d) after following the due procedure as required under section 148A(b) in respect of each of the concerned assesseees;*

(iv) *All the defences which may be available to the assessee under section 149 and/or which may be available under the Finance Act, 2021 and in law and whatever rights are available to the Assessing Officer under the Finance Act, 2021 are kept open and/or shall continue to be available and;*

(v) *The present order shall substitute/modify respective judgments and orders passed by the respective High Courts quashing the similar notices issued under unamended section 148 of the IT Act irrespective of whether they have been assailed before this Court or not."*

Accordingly, the Hon'ble Apex Court in the case of Union of India & Ors Vs. Ashish Agrawal (supra), had held as under:

(i) *the notices issued u/s. 148 of the Act to the respective assesseees under the old regime during the period 01.04.2021 to 30.06.2021 shall be deemed to have been issued u/s.148A of the Income Tax Act as substituted by the Finance Act, 2021 and treated to be show cause notices in terms of Section 148A(b) of the Act;*

(ii) *the A.O shall within thirty days from the date of order of the Hon'ble Apex Court in the case of Union of India & Ors Vs. Ashish Agrawal (supra) i.e. 04.05.2022 provide to the assessee information/material that was relied upon by the department which suggested that his income chargeable to tax had escapement;*

(iii) *that a period of two weeks shall thereafter be allowed to the assessee's to file reply in response to the notice issued u/s. 148A(b) of the Act;*

(iv) *the A.O shall, thereafter, pass an order u/s. 148A(d) of the Act with the prior approval of the specified authority, within one month from the end of the month, in which, the assessee's reply is received by him; or where no such reply is furnished, within one month from the end of the month in which time or extended time allowed to furnish the aforesaid reply expires.*

21. Thereafter, the Hon'ble Apex Court in the case of *Union of India and Ors. Vs. Rajeev Bansal* (2024) 469 ITR 46 (SC) had, *inter alia*, further clarified as under:

(i) The A.O is 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 of the Act which were required to be issued within the time limit specified under section 151 of the new regime *r.w.* TOLA, 2020, where applicable;

(ii) that the directions issued by the Hon'ble Apex Court in the case of *Union of India & Ors Vs. Ashish Agrawal* (*supra*) applied PAN-India including all the 90,000 reassessment notices issued under section 148 of the old regime during the period April 1, 2021 to June 30, 2021.

(iii) the department was directed to provide all the relevant material or information to the assessee's and thereafter, allow the assessee's to respond to the "Show cause notices" by availing all the defences including those available under Section 149 of the Act.

(iv) that as per Section 148A(b) of the Act, the A.O. had to comply with two requirements, viz. (i) issuance of a show cause notice; and (ii) supply of all the relevant information which formed the basis of the show-cause notice.

(v) the total time that was excluded for computation of limitation for the deemed notices is, viz. (i) the time during which the show-cause notices were effectively stayed, that is, from the date of issuance of the deemed notice between 1st April, 2021 and 30th June, 2021 till the supply of relevant information or material by the assessing officers to the assesses in terms of the directions in *Union of India & Ors Vs. Ashish Agarwal* (*supra*); and (ii) two weeks allowed to the assesses to respond to the show-cause notices.

(vi) that the time surviving under the Act read with TOLA, 2020 that would be available to the department to complete the remaining proceedings in furtherance of the deemed notices, including issuance of reassessment notices u/s. 148 of the new regime could be calculated by computing the number of days between the date of issuance of the deemed notice and June 30, 2021. For the sake of clarity, the observations of the Hon'ble Apex Court in the case of *Union of India & Ors. Vs. Rajeev Bansal* (*supra*) are culled out as under:

"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 2021, then the specified authority under Section 151(i) has extended time till 30 June 2021 to grant approval;

e. In the case of Section 151 of the old regime, the test is: if the time limit of four years from the end of an assessment year falls between 20 March 2020 and 31 March 2021, then the specified authority under Section 151(2) has extended time till 31 March 2021 to grant approval;

f. The directions in Ashish Agarwal (*supra*) will extend to all the ninety thousand reassessment notices issued under the old regime during the period 1 April 2021 and 30 June 2021;

g. The time during which the show cause notices were deemed to be stayed is from the date of issuance of the deemed notice between 1 April 2021 and 30 June 2021 till the supply of relevant information and material by the assessing officers to the assesses in terms of the directions issued by this Court in Ashish Agarwal (*supra*), and the period of two weeks allowed to the assesses to respond to the show cause notices; and h. The assessing officers were required to issue the reassessment notice under Section 148 of the new regime within the time limit surviving under the Income Tax Act read with TOLA. All notices issued beyond the surviving period are time barred and liable to be set aside;"

22. Shri Ravi Agrawal, Ld. AR for the assessee, after referring to the post-amended Section 148 r.w.s. 148A r.w.s. 149 of the Act (as had been made available on the statute vide the Finance Act, 2021 w.e.f. 01.04.2021) read in the backdrop of the aforesaid judicial pronouncements of the Hon'ble Apex Court, submitted that as the notice u/s. 148 of the Act, dated 25.07.2022 had been issued beyond the surviving/balance period that was available with the A.O, therefore, the same

was barred by limitation. Elaborating further on his contention, the Ld. AR submitted that the A.O pursuant to the judgment of the Hon'ble Apex Court in the case of Union of India & Ors Vs. Ashish Agarwal (supra), had issued show- cause notice u/s. 148A(b) of the Act, dated 25.05.2022, Page 1 & 2 of APB, wherein the assessee firm was called upon to furnish its reply within two weeks from the date of receipt of the said letter. In compliance, the assessee firm which though was allowed a time period of two weeks to furnish its reply, had filed/uploaded the same on 30.05.2022, Page 3 to 7 of APB. The Ld. AR submitted that the period of two weeks allowed to the assessee firm to file its reply to the show-cause notice issued u/s. 148A(b) of the Act lapsed as on 07.06.2022. Carrying his contention further, the Ld. AR submitted, that as observed by the Hon'ble Apex Court in the case of Union of India & Ors Vs. Rajeev Bansal (supra), the clock started ticking for the department to issue notice u/s. 148 of the Act from 07.06.2022 (supra) i.e. after considering the balance/surviving period that was available with it. The Ld. AR submitted that as the A.O had issued the deemed notice u/s.148A of the Act on 30.06.2021, therefore, after accounting for all the exclusions, the A.O had one day [between June 30, 2021(date on which deemed notice u/s. 148A was issued) to June, 30, 2021 (extended time period as per TOLA, 2020)] to issue notice u/s. 148 of the Act under the new regime. The Ld. AR submitted that as per the "4th proviso" to Section 149 of the Act, where the balance/surviving period available with the A.O for passing an order under clause (d) of Section 148A of the Act was less than 7 days, then such remaining period shall be extended to seven days and the period limitation shall be deemed to be extended accordingly. Elaborating further on his contention, the Ld. AR submitted that the time started ticking for the A.O to issue notice u/s. 148 of the Act within the time period of 7 days from the lapse of period of two weeks (14 days) to respond to the SCN issued to the assessee firm u/s. 148A(b) of the Act, dated 25.05.2022, which, thus, lapsed on 16.06.2022. The Ld. AR submitted that as the A.O in the present case had issued notice u/s. 148 of the Act, dated 25.07.2022 i.e. much beyond the period of limitation which expires on 16.06.2022, therefore, the same was barred by limitation.

23. We have thoughtfully considered the contentions advanced by the Ld. Authorized Representatives of both the parties. Admittedly, the following facts are discernible from the record:-

- Notice u/s. 148 of the Act under the old regime (deemed notice u/s 148A) was issued by the A.O to the assessee firm on 30.06.2021;

- *show-cause notice u/s 148A(b) of the Act was issued by the A.O to the assessee firm on 26.05.2022;*
- *the time period of two weeks (14 days) from the date of issuing of notice u/s. 148A(b) dated 26.05.2022 [as per the judgment of the Hon'ble Apex Court in the case of Union of India & Ors Vs. Ashish Agrawal (supra)] lapsed on 08.06.2022;*
- *the balance/surviving period available with the A.O to issue notice u/s 148 of the Act (under new regime) was 1 day [time between 30.06.2021 (the date of issuance of notice u/s.148A of the Act) AND 30.06.2021 i.e. (extended time period under TOLA, 2020);*
- *as the balance/surviving period available with the A.O for passing an order under clause (d) of 148A of the Act was 1 day i.e. less than 7 days, therefore, as per the "fourth proviso" to Section 148A of the Act, the period of limitation so available would stand extended to 7 days;*
- *the A.O could have validly issued notice u/s. 148 of the Act (under the new regime) latest by 14.06.2022;*

24. *As the A.O in the present case had issued notice u/s. 148 of the Act, dated 25.07.2022 i.e. much subsequent to lapse of the period of limitation as was available with him upto 13.06.2022, therefore, as stated by the Ld. AR (subject to correction of the date by the Ld. AR as 16.06.2022), and rightly so, the same is found to be barred by limitation. Accordingly, the assessment order passed by the A.O u/s. 147 r.w.s. 144B of the Act, dated 29.04.2013 in absence of a valid notice issued u/s. 148 of the Act cannot be sustained and, is quashed.*

10. Based on aforesaid decision, it was the submission by Ld. AR that the instant case would stand on same footings, as the notice u/s 148 was issued

beyond the prescribed date, as was there in the case of **Kachrual Jitendra Kumar (supra)**.

11. To substantiate the aforesaid contention on the facts of present case and applicability of aforesaid decision, the copies of relevant notices u/s 148 (old regime), notice u/s 148A(b), order u/s 148A(d) and notice u/s 148 are furnished before us, accordingly, a chart is prepared showing the date of events in the present case (ITA No. 29/RPR/2025, AY 2014-15):

<i>Sr. No.</i>	<i>Description</i>	<i>Relevant Date</i>	<i>No. of Days</i>	<i>Remarks</i>
01.	<i>Date of notice u/s. 148 of the Act under the old regime (deemed notice u/s 148A) was issued by the A.O to the assessee firm.</i>	09.06.2021		
02.	<i>Date of show-cause notice u/s 148A(b) of the Act was issued by the A.O to the assessee firm.</i>	20.05.2022		
03.	<i>The date on which, the time period of two weeks (14 days) from the date of issuing of notice u/s. 148A(b) [as per the judgment of the Hon'ble Apex Court in the case of Union of India & Ors Vs. Ashish Agrawal (supra)] has been lapsed.</i>	02.06.2022		
04.	<i>the balance/surviving period available with the A.O to issue notice u/s 148 of the Act (under new regime) [time between the date of issuance of notice u/s.148A of the Act as per Sr. No. 1 of this table and 30.06.2021] i.e. (extended time period under TOLA, 2020);</i>		22 days	<i>(days from 09 to 30.06.2021)</i>
05.	<i>the balance/surviving period available with the A.O for passing an order under clause (d) of 148A of the Act: (i) the days calculated at Sr. No.4 of this table or (ii) 7 days (as per the "fourth proviso" to Section 148A of the Act, the period of limitation so available would stand extended to 7 days), whichever is higher</i>		22 days	
06.	<i>the A.O could have validly issued notice u/s. 148 of the Act (under the new regime) latest by the days from the date under Sr. No. 3 of this table (i.e., date of issuance of notice u/s 148A(b)</i>	23.06.2022		<i>(22 days from 02.06.2022)</i>

12. In view of aforesaid information, it was the submission by Ld. AR, that the notice u/s 148 (new regime) in the instant case, was issued beyond the prescribed time available to the Ld. AO under the mandate of law r.w. permissible additional time on account of deeming fiction, as per under the judgments in the case of **Ashish Agrawal and Rajeev Bansal (supra)**. Accordingly, as the issue in the instant case is covered by the decision in the case of **Kachrual Jitendra Kumar (supra)**, therefore, the assessment in the present case passed on the foundation of a notice u/s 148 issued on 29.06.2022, which should have been issued on or before 23.06.2022 was barred by limitation and is liable to be quashed.

13. Per contra, Dr. Priyanka Patel, Ld. Sr. DR, vehemently supported the order of Ld. AO.

14. We have considered the rival submissions, perused the material available on record and case laws relied upon by the Ld. AR. Admittedly, as per facts of the case, dates of the notices issued and the decision in the case of **Kachrual Jitendra Kumar (supra)**, we find that the issue in the present case is squarely covered in favour of the assessee. Evidently, under the facts and circumstances of the present case, the notice u/s 148 (under new regime) was issued on 29.06.2022, whereas the same was required to be issued on or

before 23.06.2022, therefore, it can be safely held that the notice u/s 148 (new regime) was issued belatedly beyond the limitation provided in the Act, which was further extended in terms of judgment by Hon'ble Apex Court in the case of **Ashish Agrawal (supra)**. In view of such facts, the assessment framed on the basis of a notice u/s 148 (new regime) dated 29.06.2022, which is barred by limitation, thus, is rendered as bad in law, therefore, stands quashed.

15. Our aforesaid view is further fortified by the judgment of Hon'ble Delhi High Court in the case of **Ram Balram Buildhome (P.) Ltd. Vs. Income Tax Officer (2025) 171 taxmann.com 99 (Delhi)**, wherein under the similar facts and circumstances Hon'ble High Court has held as under:

Analysis – In the Factual Context

65. Thus, in the facts of the present case, the last date for issuance of notice under Section 148 of the Act for AY 2013-14 under the statutory framework, as was existing prior to 01.04.2021 was 31.03.2020, that is, six years from the end of the relevant assessment year.

66. By virtue of Section 3(1) of TOLA time for completion of specified acts, which fell during the period 20.03.2020 to 31.12.2020 were extended till 30.06.2021. Thus, the notice dated 01.06.2021 was issued twenty-nine days prior to the expiry of period of limitation for issuing a notice under Section 148 of the Act as was extended by TOLA. As noted above, the period from 01.06.2021, the date of issuance of notice, and 04.05.2022, being the date of decision of the Supreme Court in Union of India & Ors. v. Ashish Agarwal² is

required to be excluded by virtue of the third proviso to Section 149(1) of the Act.

- 67.** *Additionally, the period from the date of decision in Union of India & Ors. v. Ashish Agarwal² till the date of providing material, as required to the accompanied with a notice under Section 148A(b) of the Act, is required to be excluded. Thus, the period between 04.05.2022 to 30.05.2022, the date on which the AO had issued the notice under Section 148A(b) of the Act in furtherance of his earlier notice dated 01.06.2021, is also required to be excluded by virtue of the third proviso to Section 149(1) of the Act as held by the Supreme Court in Union of India & Ors. v. Rajeev Bansal⁴.*
- 68.** *In addition to the above, the time granted to the petitioner to respond to the notice dated 30.05.2022 – the period of two weeks –is also required to be excluded by virtue of the third proviso to Section 149(1) of the Act. The petitioner had furnished its response to the notice under Section 148A(b) of the Act on 13.06.2022. Thus, the period of limitation began running from that date.*
- 69.** *As noted above, by virtue of TOLA, the AO had period of twenty-nine days limitation left on the date of commencement of the reassessment proceedings, which began on 01.06.2021, to issue a notice under Section 148 of the Act. The said notice was required to be accompanied by an order under Section 148A(d) of the Act. Thus, the AO was required to pass an order under Section 148A(d) of the Act within the said twenty-nine days notwithstanding the time stipulated under Section 148A(d) of the Act. This period expired on 12.07.2022.*
- 70.** *Since the period of limitation, as provided under Section 149(1) of the Act, had expired prior to issuance of the impugned notice on 30.07.2022. The said is squarely beyond the period of limitation.*

71. *It is contended on behalf of the Revenue that the AO is required to pass an order under Section 148A(d) of the Act by the end of the month following the month on which the reply to the notice under Section 148A(b) of the Act was received. Thus, the order under Section 148A(d) of the Act as well as the notice under Section 148 of the Act (both dated 30.07.2022) are within the prescribed period. This contention is without merit as it does not take into account that proceedings under Section 148A of the Act necessarily required to be completed within the period available for issuing notice under Section 148 of the Act, as prescribed under Section 149 of the Act. Thus, the time available to the AO to pass an order under Section 148A(d) of the Act was necessarily truncated and the same was required to be passed on or before 12.07.2022. The fourth proviso to Section 149 of the Act did not come into play as the time period available for the AO to pass an order under Section 148A(d) of the Act was in excess of the seven days.*

72. *In view of the above, we find merit in Mr. Sehgal's contention that the impugned notice dated 30.07.2022 has been issued beyond the period of limitation.*

73. *The petition is accordingly allowed and the impugned order dated 30.07.2022 passed under Section 148A(d) of the Act; the impugned notice dated 30.07.2022 issued under Section 148 of the Act; and the assessment order dated 30.05.2023 framed under Section 147 of the Act pursuant to the notice dated 30.07.2022 for AY 2013-14, are set aside. Pending application is also disposed of.*

16. As the impugned assessment for AY 2014-15 in the instant case has been rendered as quashed for the want of valid assumption of jurisdiction by

the Ld. AO, therefore, we refrain to deliberate upon and to deal with the other contentions raised by the assessee *qua* the impugned addition made by the Ld. AO and to the extent sustained by the Ld. CIT(A), thus, the same is left open.

17. Adverting to the grounds of appeal raised by the revenue in ITA No.29/RPR/2025 for the AY 2014-15, as we have quashed the assessment for the want of valid assumption of jurisdiction by the Ld. AO, therefore, the issues raised by the revenue become infructuous, accordingly, the appeal of the revenue stands **dismissed**.

18. In result, the appeal of assessee in **ITA No. 29/RPR/2025** of the revenue is **dismissed** and CO of the assessee in **CO No. 02/RPR/2025** is **allowed**.

19. Having identical issue, in **ITA no. 30/RPR/2025 for AY 2015-16** in the case of present assessee filed by the revenue and the CO against the appeal of revenue in **CO No. 03/RPR/2025** filed by the assessee, wherein the facts regarding date of issuance of notices are produced as under:

Sr. No.	Description	Relevant Date	No. of Days	Remarks
01.	Date of notice u/s. 148 of the Act under the old regime (deemed notice u/s 148A) was issued by the A.O to the assessee firm.	09.06.2021		
02.	Date of show-cause notice u/s 148A(b) of the Act was issued by the A.O to the assessee firm.	23.05.2022		
03.	The date on which, the time period of two weeks (14 days) from the date of issuing of notice u/s. 148A(b) [as per the judgment of the Hon'ble Apex Court in the case of Union of India & Ors Vs. Ashish Agrawal (supra)] has been lapsed.	05.06.2022		
04.	the balance/surviving period available with the A.O to issue notice u/s 148 of the Act (under new regime) [time between the date of issuance of notice u/s.148A of the Act as per Sr. No. 1 of this table and 30.06.2021] i.e. (extended time period under TOLA, 2020);		22 days	(days from 09 to 30.06.2021)
05.	the balance/surviving period available with the A.O for passing an order under clause (d) of 148A of the Act: (i) the days calculated at Sr. No.4 of this table or (ii) 7 days (as per the "fourth proviso" to Section 148A of the Act, the period of limitation so available would stand extended to 7 days), whichever is higher		22 days	
06.	the A.O could have validly issued notice u/s. 148 of the Act (under the new regime) latest by the days from the date under Sr. No. 3 of this table (i.e., date of issuance of notice u/s 148A(b)	26.06.2022		(22 days from 05.06.2022)

20. On perusal of the aforesaid facts and circumstances of the case for AY 2015-16, the notice u/s 148 (under new regime) was issued on 29.06.2022, whereas the same was required to be issued on or before 26.06.2022, therefore, admittedly, the impugned notice u/s 148 (new regime) was issued after the limitation provided in the Act and the extended period in terms of judgment by Hon'ble Apex Court in the case of **Ashish Agrawal (supra)**, thus, would be squarely covered by the decision in the case of **Kachrual Jitendra**

Kumar (supra), In view of such facts, the assessment framed on the basis of notice u/s 148 (new regime) dated 29.06.2022, which is barred by limitation, cannot survive, therefore, stands quashed.

21. As the impugned assessment for AY 2015-16, in the instant case has been rendered as quashed for the want of valid assumption of jurisdiction by the Ld. AO, therefore, we refrain to deliberate upon and to deal with the other contentions raised by the assessee in **CO No. 03/RPR/2025** *qua* the impugned addition made by the Ld. AO and to the extent sustained by the Ld. CIT(A), thus, the same is left open.

22. Adverting to the grounds of appeal raised by the revenue in **ITA No.30/RPR/2025 for the AY 2015-16**, as we have quashed the assessment for the want of valid assumption of jurisdiction by the Ld. AO, therefore, the issues raised by the revenue become infructuous, accordingly, the appeal of the revenue stands **dismissed**.

23. In result, the appeal of assessee in **ITA No. 30/RPR/2025** of the revenue is **dismissed** and CO of the assessee in **CO No. 03/RPR/2025** is **allowed**.

24. In combined result, both the appeals of revenue i.e., **ITA No. 29 & 30/RPR/2025** is **dismissed** and Cross Objections of the assessee in **CO No. 02 & 03/RPR/2025** is **allowed**, in terms of our aforesaid observations.

Order pronounced in the open court on 17/02/2025.

Sd/-
(RAVISH SOOD)

न्यायिक सदस्य / JUDICIAL MEMBER

रायपुर/Raipur; दिनांक Dated 17/02/2025

Vaibhav Shrivastav

Sd/-
(ARUN KHODPIA)

लेखा सदस्य / ACCOUNTANT MEMBER

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

1. अपीलार्थी / The Appellant- Dy. CIT-1(1), Raipur
2. प्रत्यर्थी / The Respondent- Shri Vinay Agrawal, Mahasamund
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

// सत्यापित प्रति True copy //

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)
आयकर अपीलीय अधिकरण, रायपुर/ITAT, Raipur