

**| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"G" BENCH, MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT**  
**&**  
**SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER**

**I.T.A. No. 4599/Mum/2024**  
**Assessment Year: 2013-14**

<b>DCIT, Circle - 42(1)(1), Mumbai</b>	Vs	<b>Satyendra Kumar Triloknath Goyal,</b> <b>Mumbai</b> I 702, Pranay Nagar Society Ram Mandir Extn Road Vazira Naka Borivali West Maharashtra - 400091 <b>[PAN: AAEPG3578R]</b>
<b>अपीलार्थी/ (Appellant)</b>		<b>प्रत्यर्थी/ (Respondent)</b>

Assessee by :	Shri Ajay R. Singh & Shri Akshay Pawar, A/Rs
Revenue by :	Shri Bhangapatil Pushkaraj Ramesh, Sr. D/R

सुनवाई की तारीख/**Date of Hearing** : 05/03/2025  
घोषणा की तारीख /**Date of Pronouncement**: 11/03/2025

**आदेश/ORDER**

**PER NARENDRA KUMAR BILLAIYA, AM:**

This appeal by the revenue is preferred against the order dated 09/07/2024 pertaining to AY 2013-14.

2. The grievance of the revenue read as under:-

"1. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in quashing the order passed by the AO u/s. 148A(d) of the Act and consequent notice issued u/s 148 of the Act on the issue of interest expenses of Rs.85,83,418/- on the loans taken from parties M/s. Seven Star Jewels and M/s. Samkit Diamond who are providing accommodation entries without doing any business.

2. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in quashing and set aside the order u/s 148A(d) of the Act and consequent notice issued u/s 148 of the Act on the issue of sanctioning authority u/s 151 of the Act without considering provisions of Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA) and CBDT's Instruction no. 1/2022 on 11th May 2022."

3. "On the facts and circumstances of the case and in Law, the Ld. CIT(A) has erred in not appreciating that the CBDT's Instruction 1 of 2022, which is applicable in instant case, has been issued in accordance with the provisions of law and is in consonance with the Hon'ble Supreme Court's judgment in the case of UOI Vs. Ashish Agarwal."

4. "On the facts and circumstances of the case and in Law, the Ld. CIT(A) has erred in ignoring that the view taken by it in the petitioner's case is contrary to the judgment of the Hon'ble Delhi High Court in the case of *Salit Gulati Vs. Asst. Commissioner of Income Tax, Circle-49(1), Delhi and Ors.* (W.P.(C) 12541/2022 & CM APPLS. 37959-37961/2022) which has been subsequently endorsed by the Hon'ble Apex Court/order dated 11.04.2023 in SLP No. 7466/2023 filed in that case)."

5. "On the facts and circumstances of the case and in Law, the Ld. CIT(A) has erred in not appreciating that the Hon'ble Delhi High Court vide order dated 31-08-2022 in the case of *Salil Gulati Vs. Asst. Commissioner of Income Tax, Circle-49(1), Delhi and Ors.* (cited supra) has upheld the validity of Instruction No.1/2022 of CBDT and that this judgment has been subsequently endorsed by the Hon'ble Apex Court."

6. The appellant craves leave to amend or alter or add a new ground which may be necessary."

3. Briefly stated the facts of the case are that the original assessment order was completed u/s 143(3) of the Act vide order dated 26/02/2016 wherein issue of unsecured loan and interest paid thereon were considered and addition u/s 68 of the Act was made by the AO. Thereafter notice u/s 148 of the Act was issued reopening the completed assessment. The showcause notice was dated 28/06/2021 which was issued under the old regime of reopening the assessment, therefore, according to the decision of the Hon'ble Supreme Court in the case of *UOI vs. Rajeev Bansal* in *Civil Appeal No. 8629 of 2024*, the AO had three days i.e., days between 28/06/2021 and 30/06/2021 to issue notice u/s 148 of the Act under new regime.

3.1. Pursuant to the decision in the case of *Union of India vs. Ashish Agarwal* [2023] 1 SCC 617, the AO issued notice u/s 148A(b) of the Act on 24/05/2022 to which the assessee submitted its response on 09/06/2022, therefore, the AO had three days from 09/06/2022 to issue a reassessment notice u/s 148 of the Act under the new regime. The AO issued notice u/s 148 of Act on 29/07/2022 which is barred by limitation as per the decision of the Hon'ble Supreme Court in the case

of *Rajeev Bansal (supra)*, wherein, the Hon'ble Supreme Court has considered the submissions made on behalf of the revenue and held as under:-

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

*a. Parliament enacted TOLA as a free-standing legislation to provide relief and relaxation to both the assesses and the Revenue during the time of COVID- 19. TOLA seeks to relax actions and proceedings that could not be completed or complied with within the original time limits specified under the Income Tax Act;*

*b. Section 149 of the new regime provides three crucial benefits to the assesses: (i) the four-year time limit for all situations has been reduced to three years; (ii) the first proviso to Section 149 ensures that re-assessment for previous assessment years cannot be undertaken beyond six years; and (iii) the monetary threshold of Rupees fifty lakhs will apply to the reassessment for previous assessment years;*

*c. The relaxations provided under Section 3(1) of TOLA apply "notwithstanding anything contained in the specified Act." Section 3(1), therefore, overrides the time limits for issuing a notice under Section 148 read with Section 149 of the Income Tax Act;*

*d. TOLA does not extend the life of the old regime. It merely provides a relaxation for the completion or compliance of actions following the procedure laid down under the new regime;*

*e. The Finance Act 2021 substituted the old regime for re-assessment with a new regime. The first proviso to Section 149 does not expressly bar the application of TOLA. Section 3 of TOLA applies to the entire Income Tax Act, including Sections 149 and 151 of the new regime. Once the first proviso to Section 149(1)(b) is read with TOLA, then all the notices issued between 1 April 2021 and 30 June 2021 pertaining to assessment years 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018 will be within the period of limitation as explained in the tabulation below:*

Assessment Year (1)	Within 3 Years (2)	Expiry of Limitation read with TOLA for (2) (3)	Within six Years (4)	Expiry of Limitation read with TOLA for (4) (5)
2013-2014	31.03.2017	TOLA not applicable	31.03.2020	30.06.2021
2014-2015	31.03.2018	TOLA not applicable	31.03.2021	30.06.2021
2015-2016	31.03.2019	TOLA not applicable	31.03.2022	TOLA not applicable
2016-2017	31.03.2020	30.06.2021	31.03.2023	TOLA not applicable
2017-2018	31.03.2021	30.06.2021	31.03.2024	TOLA not applicable

- f. The Revenue concedes that for the assessment year 2015-16, all notices issued on or after 1 April 2021 will have to be dropped as they will not fall for completion during the period prescribed under TOLA;*
- g. Section 2 of TOLA defines "specified Act" to mean and include the Income Tax Act. The new regime, which came into effect on 1 April 2021, is now part of the Income Tax Act. Therefore, TOLA continues to apply to the Income Tax Act even after 1 April 2021; and*
- h. Ashish Agarwal (supra) treated Section 148 notices issued by the Revenue between 1 April 2021 and 30 June 2021 as show-cause notices in terms of Section 148A(b). Thereafter, the Revenue issued notices under Section 148 of the new regime between July and August 2022. Invalidation of the Section 148 notices issued under the new regime on the ground that they were issued beyond the time limit specified under the Income Tax Act read with TOLA will completely frustrate the judicial exercise undertaken by this Court in Ashish Agarwal (supra)."*

3.2. From the afore-extracted charts, it can be seen that the revenue has accepted that the expiry of the limitation TOLA for AY 2014-15 would be 30/06/2021. The Hon'ble Supreme Court has explained the extension of TOLA time limit in the following manners:-

*"54. The proviso to Section 149(1)(b) of the new regime uses the expression "beyond the time limit specified under the provisions of clause (b) of subsection (1) of this section, as they stood immediately before the commencement of the Finance Act, 2021." Thus, the proviso specifically refers to the time limits specified under Section 149(1)(b) of the old regime. The Revenue accepts that without application of TOLA, the time limit for issuance of reassessment notices after 1 April 2021 expires for assessment years 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018 in the following manner:*

- (i) for the assessment years 2013-2014 and 2014-2015, the six year period expires on 31 March 2020 and 31 March 2021 respectively; and*
- (ii) for the assessment years 2016-2017 and 2017-2018, the three year period expires on 31 March 2020 and 31 March 2021 respectively.*

*a. Finance Act 2021 substituted the old regime."*

3.3. In the aforementioned judgment, the Hon'ble Supreme Court has explained the law brought by the Finance Act, 2021, substituting u/s 147 to 151 and the TOLA providing for relaxation of time limit prescribed under the specified Acts. The Hon'ble Supreme Court has

also observed that Section 3(1) of TOLA starts with non-obstante clause which has to be read as controlling the provisions of the specified Acts including the provision of Income Tax Act which also overrides Section 149 only to the extent of relaxing the time limit of issuing of re-assessment notice u/s 148 of the Act.

4. The Hon'ble Supreme Court held that time limit for issuance of re-assessment notice which falls for completion between 20/03/2020 and 31/03/2021, has been extended till 30/06/2021.

5. From paragraph 73 to 76, the Hon'ble Supreme Court has elaborated the sanction of specified authority u/s 151 *vis-à-vis* the time limit prescribed u/s 151 of the Act. The said part reads as under:-

*"73. Section 151 imposes a check upon the power of the Revenue to reopen assessments. The provision imposes a responsibility on the Revenue to ensure that it obtains the sanction of the specified authority before issuing a notice under Section 148. The purpose behind this procedural check is to save the assesses from harassment resulting from the mechanical reopening of assessments.<sup>128</sup> A table representing the prescription under the old and new regime is set out below:*

<b>Regime</b>	<b>Time limits</b>	<b>Specified authority</b>
Section 151(2) of the old regime	Before expiry of four years from the end of the relevant assessment year	Joint Commissioner
Section 151(1) of the old regime	After expiry of four years from the end of the relevant assessment year	Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner
Section 151(i) of the new regime	Three years or less than three years from the end of the relevant assessment year	Principal Commissioner or Principal Director or Commissioner or Director
Section 151(ii) of the new regime	More than three years have elapsed from the end of the relevant assessment year	Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General

74. The above table indicates that the specified authority is directly co-related to the time when the notice is issued. This plays out as follows under the old regime:

(i) If income escaping assessment was less than Rupees one lakh: (a) a reassessment notice could be issued under Section 148 within four years after obtaining the approval of the Joint Commissioner; and (b) no notice could be issued after the expiry of four years; and

(ii) If income escaping was more than Rupees one lakh: (a) a reassessment notice could be issued within four years after obtaining the approval of the Joint

Commissioner; and (b) after four years but within six years after obtaining the approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

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.

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."

5.1. In para 94, the Hon'ble Supreme Court has mentioned about the three important periods to see the limitation which are as under:-

"94. Before we proceed, we need to bear in mind three important periods:

- i. The period up to 30 June 2021 - this period is covered by the provisions of the Income Tax Act read with TOLA;
- ii. The period from 1 July 2021 to 3 May 2022 - the period before the decision of this Court in Ashish Agarwal (supra); and
- iii. The period after 4 May 2022 - the period after the decision of this Court in Ashish Agarwal (supra). This period is covered by the directions issued by this Court in Ashish Agarwal (supra) and the provisions of the Income Tax Act read with TOLA.

**a. Third proviso to Section 149**

95. The third proviso to Section 149 reads thus:

"Provided also that for the purposes of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice issued under clause (b) of section 148A or the period during which the proceeding under section 148A is stayed by an order or injunction of any court, shall be excluded."

96. The third proviso excludes the following periods to calculate the period of limitation: (i) the time allowed to the assessee under Section 148A(b); and (ii) the period during which the proceedings under Section 148A are "stayed by an order or injunction of any court."

5.2. Finally, after analyzing the judgment in the case of *Shri Ashish Agarwal (supra)* in various time limits provided in the Act and the time extended by TOLA, the Hon'ble Supreme Court concluded 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;***

6. In light of the aforementioned judgment of the Hon'ble Supreme Court, coming back to the facts of the case in hand, notice u/s 148 of the Act was issued on 29/07/2022 whereas the original time limit for six years was 31/03/2021. Therefore, even under the TOLA, the time limit

for issuance of notice u/s 148 of the Act had expired on 30/06/2021 and as per the concession made by the revenue, before the Hon'ble Supreme Court, all notices issued on or after 01/04/2021, will have to be dropped as they will not fall for concession during the period as prescribed under TOLA. Hence, the impugned notice dated 29/07/2022, is admittedly barred by limitation and is accordingly set aside.

7. Since we have quashed the notice itself, we do not find it necessary to delve into the merits of the case.

8. In the result, appeal of the revenue is dismissed.

**Order pronounced in the Court on 11<sup>th</sup> March, 2025 at Mumbai.**

*Sd/-*

(SAKTIJIT DEY)  
VICE-PRESIDENT

*Sd/-*

(NARENDRA KUMAR BILLAIYA)  
ACCOUNTANT MEMBER

Mumbai, Dated 11/03/2025

*S.S.P.*

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER  
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Assistant Registrar  
आयकर अपीलीय अधिकरण  
ITAT, Mumbai