

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'B' : NEW DELHI)**

BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT
AND
SHRI MANISH AGARWAL, HON'BLE ACCOUNTANT MEMBER

ITA No. 4602/Del/2024
Asstt. Year : 2015-16

Harish Kumar
5/21, Shanti Niketan,
Chankaya Puri,
South West Delhi,
New Delhi – 21
(PAN: AAIPK9783G)
(Appellant)

vs. NFAC, Delhi

(Respondent)

And

ITA No. 4676/Del/2024
Asstt. Year : 2015-16

ACIT,
Room No. 1505, 15th floor, E-2
Tower, Dr. SP Mukherjee
Civic Centre, New Delhi – 2

vs. Harish Kumar,
1/7, West Patel Nagar
New Delhi – 8

(PAN: AAIPK9783G)
(Appellant)

(Respondent)

Appellant by : Shri Sanjay Agarwal, CA &
Sh. Sumaksh Mahajan, CA
Respondent by : Shri Surender Pal, CIT(DR)

| | |
|-----------------------|------------|
| Date of Hearing | 20.03.2025 |
| Date of Pronouncement | 18.06.2025 |

ORDER

PER MAHAVIR SINGH, VP :

These are cross appeals filed by the Assessee as well as Revenue against the order dated 06.8.2024 passed by the Ld. CIT(A)/NFAC, Delhi

for the assessment year 2015-16. For the sake of convenience, these cross appeals were heard together and are being disposed of by this common order, by first dealing with the Assessee's appeal, wherein the assessee has raised as many as 11 grounds, but however, he only argued the legal ground no. 4 which reads as under:-

“Notice u/s 148 barred by limitation :
That the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi has erred in law and facts of the matter while not quashing the notice issued on 29.07.2022 u/s. 148 of the Act being barred by limitation in view of the first proviso to S. 149(1) of the Act and as such the notice issued u/s. 148 is bad in law and deserves to be quashed.”

2. Brief facts of the case are that the assessee had filed his return of income for AY 2015-16 on 17.09.2015 declaring total income of Rs. 11,86,80,770/-. Subsequently, the case was taken up for reassessment proceedings based on the information received under Risk Management Strategy as formulated by the CBDT. Notice u/s. 148 dated 23.06.2021 was issued after obtaining the prior approval of the PCIT, Delhi-4. The AO vide order u/s. 147 r.w.s. 144B of the Act dated 29.05.2023 completed the assessment at income of Rs. 36,24,74,243/- by disallowing the short term capital loss u/s. 94(7) of the Act and adding the said amount. In appeal, Ld. CIT(A) partly allowed the appeal of the assessee. Aggrieved, assessee and revenue both are in cross appeals before us.

3. At the time of hearing, ld. Counsel for the assessee submitted that Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, has erred in law and facts of the matter while not quashing the

notice issued on 29.07.2022 u/s. 148 of the Act being barred by limitation in view of the first proviso to S. 149(1) of the Act and as such the notice issued u/s. 148 is bad in law and deserves to be quashed. In support of his contention, he filed the synopsis on this issue, which reads under:-

"It is most respectfully submitted that the year under consideration pertains to Assessment Year 2015-16, and accordingly, the limitation period available to the Ld. JAO for issuance of notice under Section 148 of the Act, as per Section 149, expired on 31.03.2022. Therefore, the issuance of notice under Section 148 of the Act on 29.07.2022 is barred by limitation. Consequently, the reassessment proceedings culminating in the order under section 147 r.w.s. Section 144B of the Act are rendered void ab initio, having been initiated beyond the prescribed statutory period and lacking legal sustainability.

1.2. Reliance is placed in case of Ibibo Group Private Limited v. Assistant Commissioner Of Income Tax Circle 10-1 W.P.(C) 17639/2022 (a copy of the judgment is annexed at Pages No. 1-3 of Case Laws Compilation) wherein, the Hon'ble Delhi High Court, categorically ruled in favor of the taxpayer on this issue. The said judgment, inter alia, considered the Revenue's submissions before the Hon'ble Supreme Court in Union of India v. Rajeev Bansal [2024] 167 taxmann.com 70 (SC), specifically in paragraphs 19(e) and 19(f), thereby reaffirming that notices issued beyond the prescribed limitation period are legally unsustainable (A copy of the judgment is annexed at Pages No. 4-45 of Case Laws Compilation). The relevant extract of Paragraph 19 (e) and 19(f) is being produced hereunder:

"(e) The Finance Act, 2021 (2021) 432 ITR (Stat) 52 substituted the fold regime for reassessment with a new regime.

The first proviso to section 149 does not expressly bar the application of Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, Section 3 of the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 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 Taxation and other Laws (Relation and Amendment of Certain Provisions) Act, 2020, then all the notices issued between April 1, 2021 and June 30, 2021

pertaining to the 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:

| <i>Assessment Year</i> | <i>Within Years</i> | <i>Expiry of Limitation read with TOLA for (2) (3)</i> | <i>Within Six Years (4)</i> | <i>Expiry of Limitation read with TOLA for (4)(5)</i> |
|------------------------|---------------------|--|-----------------------------|---|
| <i>2013-14</i> | <i>31.03.2017</i> | <i>TOLA applicable not</i> | <i>31.03.2020</i> | <i>30.06.2021</i> |
| <i>2014-15</i> | <i>31.03.2018</i> | <i>TOLA applicable not</i> | <i>31.03.2021</i> | <i>30.06.2021</i> |
| <i>2015-16</i> | <i>31.03.2019</i> | <i>TOLA applicable not</i> | <i>31.03.2022</i> | <i>TOLA not applicable</i> |
| <i>2016-17</i> | <i>31.03.2020</i> | <i>TOLA applicable not</i> | <i>31.03.2023</i> | <i>TOLA not applicable</i> |
| <i>2017-18</i> | <i>31.03.2021</i> | <i>TOLA applicable not</i> | <i>31.03.2024</i> | <i>TOLA not applicable</i> |

(f) The Revenue concedes that for the assessment year 2015-16, all notices issued on or after April 1, 2021 will have to be dropped and they will not fall for completion during the period prescribed under the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020.

In view of the aforesaid, the impugned order dated 29.07.2022 issued under Section 148(A)(d) of the Act as well as the notice dated 29.07.2022 issued under Section 148 of the act in respect of AY 2015-16 are liable to be quashed. The above view is also accepted by the Hon'ble Delhi High Court in the case of Pratishta Garg v. Assistant Commissioner of Income-Tax Central (2025] 171 taxmann.com 264 Delhi) (A copy of the judgment is annexed at Pages No. 46-48 of Case Laws Compilation) and Hon' be ITAT (Mumb. in the case of Income Tax Officer, Income Tax V. Sumitra Rajeshbhai Jain, Mumbai [2025 SCC OnLine ITAT 1859). (A copy of the judgment is annexed at Pages No. 49-61 of Case Laws Compilation)

SURVIVING PERIOD AS PER RAJEEV BANSAL (Supra)

2. Even otherwise, it is submitted that the limitation period must be as amended by the Finance Act, 2021, read with TOLA and judicial pronouncements of the Hon'ble Supreme Court.

2.1. However, in the present case, pursuant to the judicial dictum laid down in Union of India v. Ashish Agarwal (supra), the Ld.

JAO initiated reassessment proceedings by issuing a notice under Section 148A(b) of the Act on 01.06.2022, requiring the appellant to furnish a show-cause response by 17.06.2022 as to why a notice under Section 148 should not be issued. The appellant duly submitted objections on 17.06.2022. However, disregarding these submissions, the Ld. JAO summarily rejected the appellant's contentions and proceeded to issue a notice under Section 148A(d) along with a notice under Section 148 of the Act on 29.07.2022.

2.2. It is pertinent to note that, in the case of Union of India v. Rajeev Bansal (Supra), the following points were mentioned by the Hon'ble Apex Court:

** Regarding period of limitation of issuance of statutory notice us 148 of the new law, it has been stated that in view of third proviso to section 149 of the new law, the period between date of issuance of original notice issued us 148 of the old law and due date or extended due date of filing of response to communication issued by assessing officer in pursuance of judgement of Hon'ble Apex Court in the case of UOI vs. Ashish Agarwal (Supra) shall be deemed to be excluded from the period of limitation for issuance of notice u/s 148 of the new law.*

** Also, in view of fourth proviso to section 149 of the new law, in peculiar cases, where immediately after exclusion of said period to be excluded from the period of limitation for issuance of notice us 148 of the new law, the period available with assessing officer for issuance of notice u/s 148 of the new law is less than 7 days, then the assessing officer shall be legally allowed to issue such statutory notice within 7 days from the end of said exclusion*

** Summarily, the surviving time period for issuance of valid notice u/s 148 of the new law, where original notice us 148 of the old law issued between 01.04.2021 to 30.06.2021 subsequently considered as show cause notice issued us 148A(b) of the new law in pursuance of judgement of Hon'ble Apex Court in the case of UOI vs. Ashish Agarwal (Supra), would be the time period between 30.06.2021 and the date of issuance of original notice us 148 of the old law. And, where the aforesaid surviving period is less than 7 days, the same would be extended to 7 days. Thereby, such*

surviving period or extended surviving period shall be added to the due date or extended due date of filing response to communication issued in pursuance of judgement of Hon'ble Apex Court in the case of UOI vs. Ashish Agarwal (Supra) furnishing all material being relied upon by the Assessing Officer.

** 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.*

In the instant case, the above-mentioned judgement can be incorporated and compared in the case of appellant in the manner laid down below.

| Particulars | |
|--|----------------------|
| Assessment Year | 2015-16 |
| <i>Last Date to Issue notice us 148 as per Old Law s. 149 (6 years from the end of relevant AY</i> | <i>31.03.2022</i> |
| <i>Extended deadline to issue notice u/s 148 as per TOLA and notifications issued therein</i> | <i>30.06.2022</i> |
| <i>Notice u/s 148 issued under Old Law. (4 copy of notice is annexed on Page No.7 of Synopsis)</i> | <i>23.06.2021</i> |
| <i>Hon'ble Supreme Court Order dt. 4.5.2022 in Ashish Agarwal's case deeming notice us 148 issued under Old Law as Notice u/s 148A(b) of New Law as amended by Finance Act, 2021 and directing that material/information be given in 30 days from date of the said order and assessee shall reply within two weeks thereafter.</i> | <i>04.05.2022</i> |
| <i>Notice providing material in pursuance of Hon'ble Supreme Court Order in Ashish Agarwal's case.</i> | <i>01.06.2022</i> |
| <i>Time limit to file reply (two weeks)</i> | <i>17.06.2022</i> |
| <i>Reply filed by the assessee (No extension sought by assessee) (A copy of response is annexed on Pages No.37-53 of Synopsis)</i> | <i>17.06.2022</i> |
| <i>Time excluded as per third proviso to section</i> | <i>23.06.2021 to</i> |

| | |
|---|---|
| <i>149(1) as per Supreme Court decision in Rajeev Bansal's case i.e. from the date of original 148 notice which was deemed as show cause notice u/s 148A(b) by the decision of Ashish Agarwal till the supply of the material and time allowed to the assessee to file the reply.</i> | <i>17.06.2022</i> |
| <i>Time that was available/left to issue notice u/s 148 as per section 149 read with TOLA</i> | <i>7 days (23.06.201 to 30.06.2021)</i> |
| <i>Time limit to issue notice us 148 as per section 149 as amended by Finance 30.06.2021) Act, 2021 as per Rajeev Bansal's case</i> | <i>24.06.2022</i> |
| <i>Date of Issue of Notice us 148 (A copy of notice is annexed on Pages No. 35-36 of Synopsis)</i> | <i>29.07.2022</i> |

2.3. Upon meticulous examination of the data presented in the preceding table, it is most humbly submitted that:

a) In case of the appellant, surviving period i.e. humber of days between date of issuance of original notice u/s 148 under old law and 30.06.2021, is only 7 days.

Now, considering the period of exclusion prescribed by the Hon'ble Apex Court in the case of UOI vs. Rajeev Bansal (Supra) i.e. the period between date of issuance of original notice w/s 148 under the old law and the due date of filing response to communication issued by the Ld. JAO furnishing material being relied upon i.e. period between 23.06.2021 and 17.06.2022, the surviving period would be 7 days after 17.06.2022, i.e., 24.06.2022. Accordingly, the period of limitation for issuance of notice u/s 148 of the new law as envisaged in aforesaid judgement of Hon'ble Apex Court was 24.06.2022.

c) However, the Ld. JAO issued the notice of the new law on 29.07.2022 which is more than a month after expiry of period of limitation. Consequently, the notice dated 29.07.2022, issued under section 148 of the Act, is time-barred.

Accordingly, by virtue of period of limitation prescribed by the Hon'ble Apex Court in the case of UOI vs. Rajeev Bansal (Supra) and correlated facts of the case of the appellant, it is clearly evident that the statutory notice issued u/s 148 of the new law is barred by limitation and thereby, deserves to be quashed.

Consequently, these proceedings ought to be adjudged null and void ab initio, and the resultant assessment order dated 29.05.2023 merits annulment and should be rescinded forthwith.

Prayer: In view of the foregoing submissions, it is most humbly prayed that the impugned reassessment proceedings initiated under Section 148 of the Act and culminating in the order under Section 147 r.w.s Section 144B of the Act be quashed as void ab initio, being barred by limitation. It is further prayed that any consequential demands or proceedings arising therefrom be annulled.”

4. Per contra, Ld. CIT(DR) relied upon the order of the Ld. CIT(A), wherein, Ld. CIT(A) has dismissed the said issue raised by the assessee.

5. We have heard the rival contentions, perused the records including the case laws relied upon by the Ld. Counsel for the assessee. From perusal of the records, it reveals that it is an undisputed fact that the year under consideration is relating to Assessment Year 2015-16, and accordingly, the limitation period available to the AO for issuance of notice under Section 148 of the Act, as per Section 149, was expired on 31.03.2022. However, the notice under Section 148 of the Act was issued on 29.07.2022, thus, the issuance of notice under Section 148 of the Act on 29.07.2022 is barred by limitation. Consequently, the reassessment proceedings culminating in the order under section 147 r.w.s. Section 144B of the Act are rendered void ab initio, having been initiated beyond the prescribed statutory period and lacking legal sustainability.

5.1 It is further noted that in the case of *Ibibo Group Private Limited v. Assistant Commissioner Of Income Tax Circle 10-1 W.P.(C) 17639/2022*, a copy thereof has been placed before us in the form of Paper Book of Case Law Compilation wherein, the Hon'ble Delhi High Court, categorically ruled the similar issue in favor of the assessee/appellant. The said judgment, inter alia, considered the

Revenue's submissions before the Hon'ble Supreme Court in Union of India v. Rajeev Bansal [2024] 167 taxmann.com 70 (SC), specifically in paragraphs 19(e) and 19(f), thereby reaffirming that notices issued beyond the prescribed limitation period are legally unsustainable, a copy of which is also placed before us in the shape of paper book case laws compilation. The relevant extract of Paragraph 19 (e) and 19(f) is being reproduced hereunder:

"(e) The Finance Act, 2021 (2021) 432 ITR (Stat) 52 substituted the fold regime for reassessment with a new regime. The first proviso to section 149 does not expressly bar the application of Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, Section 3 of the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 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 Taxation and other Laws (Relation and Amendment of Certain Provisions) Act, 2020, then all the notices issued between April 1, 2021 and June 30, 2021 pertaining to the 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 | Within Years | Expiry of Limitation read with TOLA for (2) (3) | Within Six Years (4) | Expiry of Limitation read with TOLA for (4)(5) |
|-----------------|--------------|---|----------------------|--|
| 2013-14 | 31.03.2017 | TOLA applicable not | 31.03.2020 | 30.06.2021 |
| 2014-15 | 31.03.2018 | TOLA applicable not | 31.03.2021 | 30.06.2021 |
| 2015-16 | 31.03.2019 | TOLA applicable not | 31.03.2022 | TOLA applicable not |
| 2016-17 | 31.03.2020 | TOLA applicable not | 31.03.2023 | TOLA applicable not |

| | | | | | | |
|---------|------------|--------------------|-----|------------|--------------------|-----|
| 2017-18 | 31.03.2021 | TOLA applicable | not | 31.03.2024 | TOLA applicable | not |
|---------|------------|--------------------|-----|------------|--------------------|-----|

(f) The Revenue concedes that for the assessment year 2015-16, all notices issued on or after April 1, 2021 will have to be dropped and they will not fall for completion during the period prescribed under the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020.

5.2 In view of the aforesaid, the impugned order dated 29.07.2022 issued under Section 148(A)(d) of the Act as well as the notice dated 29.07.2022 issued under Section 148 of the Act in respect of AY 2015-16 deserve to be quashed. The aforesaid view has also been accepted by the Hon'ble Delhi High Court in the case of Pratishta Garg v. Assistant Commissioner of Income-Tax Central (2025] 171 taxmann.com 264 Delhi), a copy thereof has been placed before us in the shape of paper book Case Laws Compilation, and ITAT Mumbai Bench decision in the case of Income Tax Officer, Income Tax V. Sumitra Rajeshbhai Jain, Mumbai [2025 SCC OnLine ITAT 1859), a copy thereof is also attached in the above-said Paper Book.

5.3 We further note that even otherwise, the limitation period must be strictly construed in accordance with the statutory provisions of the Act as amended by the Finance Act, 2021, read with TOLA and judicial pronouncements of the Hon'ble Supreme Court.

5.4 However, in the present case, pursuant to the law laid down by the Hon'ble Apex Court in the case of Union of India v. Ashish Agarwal (supra), the Ld. AO initiated reassessment proceedings by issuing a notice under Section 148A(b) of the Act on 01.06.2022, requiring the assessee to furnish a show-cause response by 17.06.2022 as to why a

notice under Section 148 should not be issued. The assessee duly submitted objections on 17.06.2022. However, disregarding these submissions, the Ld. JAO summarily rejected the appellant's contentions and proceeded to issue a notice under Section 148A(d) along with a notice under Section 148 of the Act on 29.07.20

5.5 We further note that the Hon'ble Apex Court in the case of Union of India v. Rajeev Bansal (Supra), have mentioned the following points :-

* Regarding period of limitation of issuance of statutory notice under section 148 of the new law, it has been stated that in view of third proviso to section 149 of the new law, the period between date of issuance of original notice issued under section 148 of the old law and due date or extended due date of filing of response to communication issued by assessing officer in pursuance of judgement of Hon'ble Apex Court in the case of UOI vs. Ashish Agarwal (Supra) shall be deemed to be excluded from the period of limitation for issuance of notice u/s 148 of the new law.

* Also, in view of fourth proviso to section 149 of the new law, in peculiar cases, where immediately after exclusion of said period to be excluded from the period of limitation for issuance of notice under section 148 of the new law, the period available with assessing officer for issuance of notice u/s 148 of the new law is less than 7 days, then

the assessing officer shall be legally allowed to issue such statutory notice within 7 days from the end of said exclusion

* Summarily, the surviving time period for issuance of valid notice u/s 148 of the new law, where original notice us 148 of the old law issued between 01.04.2021 to 30.06.2021 subsequently considered as show cause notice issued us 148A(b) of the new law in pursuance of judgement of Hon'ble Apex Court in the case of UOI vs. Ashish Agarwal (Supra), would be the time period between 30.06.2021 and the date of issuance of original notice us 148 of the old law. And, where the aforesaid surviving period is less than 7 days, the same would be extended to 7 days. Thereby, such surviving period or extended surviving period shall be added to the due date or extended due date of filing response to communication issued in pursuance of judgement of Hon'ble Apex Court in the case of UOI vs. Ashish Agarwal (Supra) furnishing all material being relied upon by the Assessing Officer.

* 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.

5.6 In view of the aforesaid, we note that in the instant case, surviving period i.e. number of days between date of issuance of original notice u/s 148 under old law and 30.06.2021, is only 7 days.

5.7 Upon considering the period of exclusion prescribed by the Hon'ble Apex Court in the case of UOI vs. Rajeev Bansal (Supra) i.e. the period between date of issuance of original notice w/s 148 under the old law and the due date of filing response to communication issued by the Ld. JAO furnishing material being relied upon i.e. period between 23.06.2021 and 17.06.2022, the surviving period would be 7 days after 17.06.2022, i.e., 24.06.2022. Accordingly, the period of limitation for issuance of notice u/s 148 of the new law as envisaged in aforesaid judgement of Hon'ble Apex Court was 24.06.2022.

5.8 However, the AO issued the notice in accordance with new law on 29.07.2022 which is more than a month after expiry of period of limitation. Consequently, the notice dated 29.07.2022, issued under section 148 of the Act, is time-barred.

5.9 Accordingly, by virtue of period of limitation prescribed by the Hon'ble Apex Court in the case of UOI vs. Rajeev Bansal (Supra) and correlated facts of the case of the assessee, it is abundantly clear that the

statutory notice issued u/s 148 of the new law is barred by limitation and therefore, the same deserve to be quashed. Consequently, the assessment order dated 29.05.2023 also bad in law.

6. In the background of the aforesaid discussions and respectfully following the binding precedents, in our considered view, the impugned reassessment proceedings initiated under Section 148 of the Act vide notice dated 29.07.2022 is barred by limitation and deserve to be quashed and consequently, the reassessment order passed under Section 147 r.w.s Section 144B of the Act dated 29.05.2023 also deserve to be quashed. We hold and direct accordingly. Resultantly, the only Legal Ground No. 4 as argued by both the sides is decided in favour of the assessee by allowing the same.

7. As no other grounds have been argued by the Assessee's AR, hence, the same are dismissed, as not pressed.

8. In the result, the Assessee's appeal is partly allowed.

9. As regards Revenue's appeal is concerned, since we have already allowed the legal ground of the assessee, as aforesaid, by quashing the impugned reassessment proceedings initiated under Section 148 of the Act vide notice dated 29.07.2022 being time barred and consequently, the reassessment order passed under Section 147 r.w.s Section 144B of the Act dated 29.05.2023 also quashed, thus, the grounds raised by the

Revenue have become academic and therefore, the appeal of the revenue stands dismissed being infructuous.

10. In the result, the assessee's appeal is partly allowed and Revenue's appeal is dismissed in the aforesaid manner.

Order pronounced on 18.06.2025.

Sd/-

Sd/-

(MANISH AGARWAL)
ACCOUNTANT MEMBER

(MAHAVIR SINGH)
VICE PRESIDENT

SRBhatnagar

Copy forwarded to: -

1. Appellant
2. Respondent
3. DIT
4. CIT (A)
5. DR, ITAT

Assistant Registrar, ITAT,
Delhi Bench