

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAIPUR BENCH, RAIPUR

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER  
AND  
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA Nos.269 & 270/RPR/2025  
निर्धारण वर्ष / Assessment Years : 2013-14 & 2015-16

The Deputy Commissioner of Income Tax-1(1),  
Raipur (C.G.)

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Usha Devi Singhania  
Manjusha, 15/480 Civil Lines,  
Raj Bhawan, Raipur (C.G.)-492 001  
PAN: AJGPS4079J

.....प्रत्यर्थी / Respondent

Assessee by : Shri Praveen Jain, CA  
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 30.07.2025

घोषणा की तारीख / Date of Pronouncement : 31.07.2025

**आदेश / ORDER****PER PARTHA SARATHI CHAUDHURY, JM:**

The captioned appeals preferred by the revenue emanates from the respective orders of the Ld.CIT(Appeals)/NFAC, Delhi dated 12.02.2025 for the assessment years 2013-14 & 2015-16 as per the grounds of appeal on record.

2. Both the parties herein conceded that since the facts and issues involved in both these appeals are absolutely similar and identical, therefore, the cases may be taken up together and dispose of vide this consolidated order.

3. In these Revenue's appeal, the assessee has filed an application under Rule 27 of the ITAT Rules, 1963. First we would adjudicate the legal ground raised by the assessee in ITA No.269/RPR/2025 for A.Y.2013-14 as the same goes to the root of the matter wherein the assessee has assailed that the reassessment in the case of the assessee is invalid by virtue of the "1<sup>st</sup> proviso" to Section 147 of the Act. In this regard, the Ld. Counsel has filed copy of the notice issued u/s.148 of the Income Tax Act, 1961 (for short 'the Act') which is dated 28.03.2021 which is extracted as follows:



GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
INCOME TAX DEPARTMENT  
OFFICE OF THE ASSISTANT COMMISSIONER OF INCOME TAX  
CIRCLE 1(1), RAIPUR

To, USHA DEVI SINGHANIA MANJUSHA 15/480 , CIVIL LINES, RAJ BHAWAN RAIPUR 492001 , Chhattisgarh India	
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PAN: AJGPS4079J	AY: 2013-14	Dated: 28/03/2021	DIN & Notice No : ITBA/AST/S/148/2020-21/1031859576(1)
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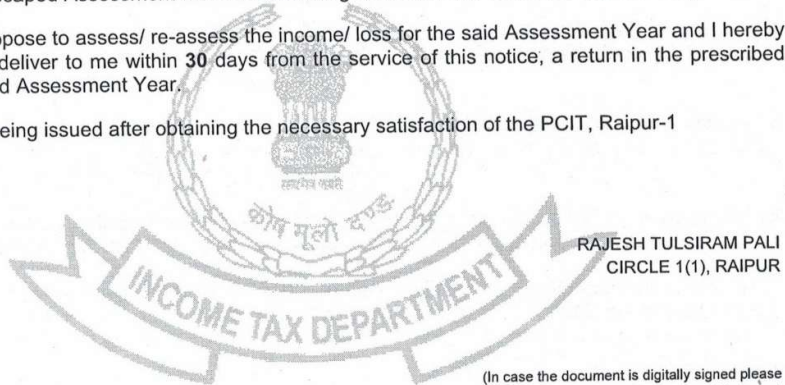
Notice Under Section 148 Of The Income Tax Act, 1961

Sir/ Madam/ M/s,

Whereas I have reasons to believe that your Income chargeable to Tax for the Assessment Year 2013-14 has escaped Assessment within the meaning of section 147 of the Income Tax Act, 1961.

I, therefore, propose to assess/ re-assess the income/ loss for the said Assessment Year and I hereby require you to deliver to me within 30 days from the service of this notice, a return in the prescribed form for the said Assessment Year.

This notice is being issued after obtaining the necessary satisfaction of the PCIT, Raipur-1



RAJESH TULSIRAM PALI  
CIRCLE 1(1), RAIPUR

(In case the document is digitally signed please refer Digital Signature at the bottom of the page)

4. Before proceeding any further, we would like to refer to the "1<sup>st</sup> proviso" to Section 147 of the Act which reads as follows:

"147. Income escaping assessment.—If the Assessing Officer has reason to believe" that any income chargeable to tax has escaped assessment" for any assessment year, he may", subject to the provisions of sections 148 to 153, assess or reassess" such" income "and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings" under this section, or recompute the loss or the

depreciation allowance or any other allowance, as the case may be, for the assessment year concerned (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year) :

Provided that where an assessment under sub-section (3) of section 143 or this 'section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 139 or in response to a notice issued under sub-section (1) of section 142 or section 148 or to disclose fully and truly all material fact necessary for his assessment, for that assessment year.....”

5. That on verification of the notice u/s.148 of the Act for relevant assessment year dated 28.03.2021 and the “1<sup>st</sup> proviso” to Section 147 of the Act, it is crystal clear that the reopening proceedings has been initiated and the notice u/s.148 of the Act issued to the assessee was beyond the period of four years from the end of the relevant assessment year. This fact has not been disputed by the department. In such scenario, further statutory requirement is that the department should be able to demonstrate specifically any failure on the part of the assessee to disclose fully and truly all material facts required for assessment for that relevant assessment year. In this regard, let us refer to the copy of the reasons recorded for reopening. The copy of the same is annexed at Paper Book-2, Pages 93 to 98 which reads as follows:

**1. Brief details of the Assessee ANNEXURE**

The status of the assessee is Individual. As per information available on records, the assessee has filed his return of income for A. Y. 2013-14 on 28.09.2013 declaring total income of Rs.NIL and claimed Rs. 93,51,731/- as exempted income under section 10(38) of Income Tax Act, 1961.

**1. Brief details of information available :**

*This office has certain information in possession that the assessee has traded for Rs. 93,51,731/- in a Penny scrip traded on Calcutta Stock Exchange under the Scrip code 10027006 M/s Quest Financial Services Ltd during the F.Y. 2012-13 pertaining to the A.Y. 2013-14. The information was received from investigation wing, which comes under category of 1(iii) of CBDT's instruction dated 04/03/2021 and instruction dated 12/03/2021. It has been found after investigation by the various wings of this Department that the transaction made in the said scrip is nothing but an arrangement for accommodation entry. Thus, the assessee has brought his own unaccounted income in the form of Long-term Capital Gain by making payment of Securities Transaction on the sale of above shares on the stock exchange to give the shape of the amount brought as Exempt Income.*

*During the course of many investigation carried out across the country on the similar issue, the modus operandi of entire transaction are found approximately same which is briefed as under:*

*A country-wide investigation by the Income-tax Department was carried out to unearth the organized racket of generating bogus entries of long term capital Gain (LTCG) which is exempt from tax. The modus operandi adopted by the operators was to make the beneficiary buy some shares of a pre-determined penny stock company controlled by them. Further, it may be mentioned here that the price of the shares of the penny stock companies are rigged and are raised through circular trading. This is managed by the "operator" of the scrip. An "operator" is a person who is managing the overall affairs of the schemes and he is one who contacts the entities who wish to take entry of bogus LTCG/STCG in their books and arranges the same through the scrips of penny stock companies. The operator manages many*

*paper/bogus companies and uses them to do circular transactions to rig the price of the shares. When the price of the shares reached to the desired level, the beneficiary who bought the shares at a nominal price made it sell to a dummy paper company of the operator. For this, unaccounted cash is provided by the beneficiary which is routed through a few layers of paper companies by the operator and finally reached to him through circular trading by the dummy companies. The shares of these penny stock companies, although listed on exchanges, are always closely held and are controlled by the promoter of the penny stock company and the operator who is arranging for the bogus LTCG/Loss. This is due to the fact that the general public is not interested in these shares as these companies have no credentials and this helps the operator to keep a control on the price movement of the shares.*

*The above manipulations are corroborated by the sworn statements of various persons recorded during the course of the said investigation. Various syndicates have arranged accommodation entry of bogus Long Term Capital Gain through trading of shares of penny.*

1. **Analysis of information :**

Assessee has filed his return of income for the assessment year 2013-14 on 28.09.2013. The assessee has claimed exempted u/s 10(38) for Rs. 93,51,731/-. As per information available in this office, it is found that the assessee has traded for Rs. 93,51,731/- in a Penny scrip M/s Quest Financial Services Ltd during the F.Y. 2012-13 pertaining to the A.Y. 2013-14. As per information available in this office, it is found that the transaction made in the said scrip is nothing but an arrangement for obtaining accommodation entry. And in this way the assessee had brought his own unaccounted income in the form of Long-term Capital Gain by making payment of Securities Transaction on the sale of above shares on the stock exchange to give the shape of the amount brought as Exempt Income.

Since the assessee had made transaction in penny stock company, during the F. Y. 2012-13 and obtained accommodation entry for Rs. 93,51,731/-, as mentioned above, in the name of the assessee is construed as transactions out of undisclosed source of income looking into the fact that, M/s Quest Financial Services Ltd, is a bogus scrip.

1. **Enquiries made as sequel to information :**

On verification of the PAN details available on ITBA, it is seen that assessee has showing exempted income u/s 10(38) of the IT Act, 1961. The assessee had made transaction in penny stock company namely M/s Quest Financial Services Ltd during which is done only for obtaining accommodation entry for Rs. 93,51,731/- and hence, source remains unexplained.

1. **Findings**

Since, the assessee has traded with the sale of shares Scrip Name: Quest Financial Services Ltd which is a penny stock scrip, therefore, the assessee has routed his own unaccounted money of Rs. 93,51,731/- through the modes as discussed in point no.2.

1. **Basis of forming reason to believe and details of escapement of income**

Investigation made by the Income Tax Department has brought the truth to the surface that, Quest Financial Services Ltd is a bogus penny scrip and its beneficiaries by purchasing the penny scrip has in fact channelized their black money to bring in their names. Since, the assessee has obtained accommodation entry in the shape of penny stock scrip in the F.Y. 2012-13 pertaining to the A.Y. 2013-14, the deeming provision of clause (c) of explanation 2 to section 147 is attracted and it is a strong case of escapement of income for the financial year under consideration. In view of the above, I have reason to believe that the income to the extent of Rs. 93,51,731/- chargeable to tax for A. Y. 2013-14 has escaped assessment within the meaning of section 147 of the Income tax Act, 1961.

1. **Applicability of the provisions of section 147/151 to the facts of the case**

The assessee had made transaction in penny stock company and obtained accommodation entry for Rs. 93,51,731/- during the A.Y. 2013-14, accordingly, the proposal to issue notice under section 148 for the AY 2013-14 is submitted in the case of the assessee for kind perusal and necessary approval as per the provisions of section 151 of the Income tax Act, 1961.

6. There is no whisper even as per the aforesaid reasons recorded regarding any failure on the part of the assessee in disclosing fully and truly all material facts necessary for assessment during the relevant assessment year. That undisputedly reopening has been done beyond the period of four years, then the revenue mandatorily has to bring on record the said failure on the part of the assessee in not disclosing fully and truly all material facts in compliance to the "1<sup>st</sup> proviso" to Section 147 of the Act. That once it is proved as in the present case of the assessee that the reopening has been done through issuance of notice u/s. 148 of the Act beyond the period of four years from the end of the relevant assessment year and there has been no failure recorded by the department on the part of the assessee in disclosing fully and truly all material facts for assessment during the relevant assessment year, in such case, such reopening shall become arbitrary, invalid and void ab initio and liable to be quashed. The same ethos has been reflected in the following judicial pronouncements.

7. The **Hon'ble Jurisdictional High Court** in the case of **Hariom Ingots and Power Pvt. Ltd. Vs. Pr. CIT (2022) 444 ITR 306 (C.G.)**. In the said decision, the Hon'ble Jurisdictional High Court had held as follows:

“6..... For issuance of notice under Section 148 of the I.T. Act, there should be tangible material and mandatory compliance of Section 147 of I.T. Act. Proceedings of reassessment has been initiated against company after lapse of 4 years of submission of return, which is not in dispute. Under first proviso to Section 147 of the I.T. Act, for starting the reassessment proceedings after lapse of 4 years, Assessing Officer has to record his conclusion that there was failure on the part of assessee in not disclosing fully and truly all material facts necessary for assessment of that particular assessment year, which is not appearing from the reading of the Annexure i.e. reasons for issuance of notice.

7. Considering the aforementioned facts and circumstances of the case, reason assigned for issuance of notice and provisions mentioned therein, in the opinion of this Court, there was no reason/ground available with Assessing Officer to issue notice under Section 148 of the I.T. Act. Issuance of notice under Section 148 of the I.T. Act to petitioner is not in accordance with the first proviso to Section 147 of the I.T. Act, therefore, it is not sustainable, which is liable to be quashed and it is hereby quashed.

8. The writ petition is accordingly allowed.”

8. In the aforesaid binding decision, it has been laid down by the Hon'ble Jurisdictional High Court that when reassessment proceedings are initiated after lapse of four years, in such case as per the “1<sup>st</sup> proviso” to Section 147 of the Act, the A.O has to record his satisfaction that there was failure on the part of assessee disclosing fully and truly all material facts necessary for assessment for that particular assessment year. That

when there was no satisfaction available with the A.O with regard to the “1<sup>st</sup> proviso” to Section 147 of the Act, in such scenario, issuance of notice u/s. 148 of the Act itself is not in accordance with the provisions of the Act thereby liable to be quashed. The writ petition of the assessee was allowed.

9. Further, we find that **ITAT, Raipur “DB” Bench** in the case of the **Avanindra Nath Agrawal Vs. DCIT, Circle-1(1), Raipur, ITA No. 128/RPR/2025, dated 22.07.2025** had dealt with the similar issue observing as follows:

“4. At the same time, the department has failed to bring on record any evidence suggesting any failure on the part of the assessee for disclosing truly and fully all material facts necessary for assessment. In this regard, the Ld. Sr. DR was directed to furnish report from the A.O and the said report was placed by her on record. The relevant submission of the A.O as per the said report is extracted as follows:

“(2) The reassessment proceedings have to be invoked within a span of 4 years however in the case of the assessee the same was reopened after 6 years.

As per old provisions of the Act, Notice u/s. 148 could be issued for 4 years from the end of A.Y. Further, Notice u/s. 148 could have been issued upto 6 years from the end of A.Y in cases where income escaping assessment is Rs.1 lakh or more.

Since, in the case of the assessee income escaping assessment for A.Y.2012-13 is Rs.61,65,450/- which is more than Rs.1 lakh therefore the case of the assessee was rightly reopened within 6 years by issuing notice u/s. 148 of the Act, dated 31.03.2019.”

As evident, it is admitted by the department that the case of the assessee was reopened after 6 years. It is also the contention of the A.O that notice u/s. 148 of the Act can be issued upto 6 years from end of the assessment year in cases where income escaping assessment is Rs.1 lakh or more and

since in the case of the assessee income escaping assessment for A.Y.2012-13 is Rs.61,65,450/- which was more than Rs.1 lakh therefore, the case of the assessee was rightly reopened within 6 years by issuing notice u/s. 148 of the Act, dated 31.03.2019.

5. In this regard, let us refer to relevant provision of Section 147 of the Act which deals with the contended issue before us:

“147. Income escaping assessment.—If the Assessing Officer has reason to believe" that any income chargeable to tax has escaped assessment" for any assessment year, he may", subject to the provisions of sections 148 to 153, assess or reassess" such" income "and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings" under this section, or recompute the loss or the depreciation allowance or any other allowance, as the case may be, for the assessment year concerned (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year) :

Provided that where an assessment under sub-section (3) of section 143 or this 'section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 139 or in response to a notice issued under sub-section (1) of section 142 or section 148 or to disclose fully and truly all material fact necessary for his assessment, for that assessment year.....”

6. That as evident as applicable to the assessment year in question i.e. A.Y.2012-13 wherein assessment has been completed for the relevant assessment year, no action shall be taken as per this provision after expiry of 4 years from the end of the relevant assessment year unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 139 or in response to a notice issued under sub-section (1) of section 142 or section 148 or to disclose fully and truly all material fact necessary for his assessment, for that assessment year. None of the limbs applies to the case of the assessee nor the revenue has able to place on record any evidence regarding

any failure on the part of the assessee “to disclose truly and fully all material facts necessary for assessment.” At the same time, ground taken by the A.O justifying the reopening beyond the period of 6 years saying that whenever there is a case where income escaping assessment is Rs.1 lakhs or more, in such cases, notice u/s. 148 of the Act could have been issued upto 6 years from the end of the assessment year, however, no such limb emanates from the said proviso to Section 147 of the Act and therefore, this reason as stated by the A.O is not emanating from the statute, hence, the said observation is perverse and infructuous and does not contain legal validity. We find that the **Hon’ble Supreme Court** in its recent order passed in the case of **Union of India Vs. Rajeev Bansal (2024) 469 ITR 46 (SC)** had, inter alia, observed that the order passed without jurisdiction is nullity. It was further observed that if a statute expressly confers a power or imposes a duty on a particular authority, then such power or duty must be exercised or performed by that authority itself. Elaborating further, the Hon’ble Apex Court had observed that any exercise of power by statutory authorities inconsistent with the statutory prescription is invalid. Apart from that, it was observed that as there cannot be any waiver of a statutory requirement or provision that goes to the root of the jurisdiction of assessment, therefore, any consequential order passed or action taken will be invalid and without jurisdiction. For the sake of clarity, the observations of the Hon’ble Apex Court are culled out as under:

“xxxx      xxxx      xxxx      xxxx      xxxx

30. If a statute expressly confers a power or imposes a duty on a particular authority, then such power or duty must be exercised or performed by that authority itself. (Dr. Premachandran Keezhoth Vs. Chancellor, Kannur University). Further, when a statute vests certain power in an authority to be exercised in a particular manner, then that authority has to exercise its power following the prescribed manner (CIT Vs. Anjum M.H. Ghaswala; State of Uttar Pradesh Vs. Singhara Singh). Any exercise of power by statutory authorities inconsistent with the statutory prescription is invalid.....

xxxx      xxxx      xxxx      xxxx      xxxx

32. A statutory authority may lack jurisdiction if it does not fulfil the preliminary conditions laid down under the statute, which are necessary to the exercise of its jurisdiction.

(Chhotobhai Jethabhai Patel and Co. V. Industrial Court, Maharashtra Nagpur Bench). There cannot be any waiver of a statutory requirement or provision that goes to the root of the jurisdiction of assessment. (Superintendent of Taxes Vs. Onkarmal Nathmal Trust). An order passed without jurisdiction is a nullity. Any consequential order passed or action taken will also be invalid and without jurisdiction. (Dwarka Prasad Agrawal V. B.D. Agrawal). Thus, the power of assessing officers to reassess is limited and based on the fulfilment of certain preconditions. (CIT Vs. Kelvinator of India Ltd.)”

Therefore, considering the facts that viz. **(i)** reopening was done beyond the period of 6 years; **(ii)** department has not proved any failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment; **(iii)** the A.O has stated frivolous invalid ground justifying the action of the department, therefore, such reassessment proceedings initiated beyond the period of 6 years is invalid, void ab initio, hence quashed.

7. Since the reassessment is quashed thereafter all the other proceedings becomes non-est in the eyes of law. As the legal issue has been answered in favour of the assessee therefore the grounds on merits becomes academic only.

8. As per the aforesaid terms the grounds of appeal raised by the assessee stands allowed.

9. In the result, appeal of the assessee is allowed.”

10. Respectfully following the aforesaid judicial pronouncements on the same parity of reasoning, we hold that the reassessment order is invalid, bad in law, void ab initio and hereby quashed. Since the reassessment is quashed thereafter all the other subsequent proceedings becomes non-est in the eyes of law.

11. That as per the aforesaid terms the application filed by the assessee under Rule 27 of the ITAT Rules, 1963 is allowed. Since the impugned order i.e. order of the Ld. CIT(Appeals)/NFAC has become non-est, the appeal preferred by the revenue against non-est order becomes infructuous and hence dismissed.

12. In the result, appeal of the revenue in ITA No.269/RPR/2025 for A.Y.2013-14 is dismissed.

**ITA No.270/RPR/2025**  
**A.Y.2015-16**

13. In the captioned Revenue's appeal also, the assessee has filed an application under Rule 27 of the ITAT Rules, 1963 challenging the validity of the reassessment order as the same is barred by limitation in view of the judgment of the **Hon'ble Supreme Court** in the case of **Union of India Vs. Rajeev Bansal [2024] 167 taxmann.com 70 (SC)**. In this regard, the Ld. Counsel has furnished a table which is extracted as follows:

Serial	PARTICULARS	COMPUTATION	Case Law	UDS
1	Date of issue of Original Notice u/s 148 within TOLA Period (Deemed Notice u/s 148A)	A	30-06-2021	30-06-2021
2	Last date of TOLA	B	30-06-2021	30-06-2021
3	Balance (On Inclusive method)	C =B-A	1	1
4	Minimum days available as per 4th Proviso of Section 149(1)	D	7	7
5	Then SURVIVING PERIOD (Para-108 to 113 of Rajeev Bansal)	E (Higher of C & D)	7	7
5A	Notice u/s 148A(b)	-		21-05-2022
6	Date of response filed by Appellant to 148A(b) notice	F	11-06-2022	03-06-2022
7	Date on which Period of two weeks allowed to assessee to respond to notice ends (deemed stay as per 3rd proviso to section 149 and Para 114 (g) of Rajeev Bansal)	G	16-06-2022	04-06-2022
8	Last date for issuing notice u/s 148 [i.e., 16.06.2022+ 7 days]	H =E + G	23-06-2022	11-06-2022
9	Actual date of issuance of notice u/s 148	H	28-07-2022	20-07-2022
10	Then Notice is time Barred by (Para 114 (H of Rajeev Bansal)	I =H - G	35	39

14. The Ld. Counsel for the assessee referring to the aforesaid table submitted that considering the last date as per the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA), the notice u/s. 148 of the Act could have been issued within 30<sup>th</sup> June, 2021. That further considering the surviving period as per the judgment of the Hon'ble Supreme Court in the case of **Union of India v. Rajeev Bansal (supra)**, the extended time period would have ended on 11<sup>th</sup> June, 2022. In

other words, beyond the last date of TOLA i.e. 30.06.2021, the last date on which the notice u/s. 148 of the Act could have been validly issued to the assessee would be 11.06.2022. However, in the case of the assessee actual date of issuance of notice u/s. 148 of the Act was 20.07.2022, hence such notice was time barred by 39 days as per the decision of the Hon'ble Apex Court in the case of **Union of India v. Rajeev Bansal (supra)**. For the sake of completeness, the said notice u/s. 148 of the Act is extracted as follows:

PAN		A.Y.	Dated	DIN & Notice No:
A.JGPS4079J		2015-16	20/07/2022	

**Notice Under section 148 of the Income Tax Act, 1961**

Sir/Madam/ M/s,

1. (A) I have the following information in your case or in the case of the person in respect of which you are assessable under the Income Tax Act, 1961 (hereinafter referred to as "the Act") for Assessment Year 2015-16

Information flagged by the risk management strategy formulated in this regard;

Final objection has been raised by the Comptroller and Auditor General of India to the effect that the assessment has not been made in accordance with the provisions of the Act;

A survey was conducted under section 133A of the Act, other than under section 133A(2A) or section 133A(5) of the Act,

Information which requires action in consequence of the judgement of the Hon'ble Supreme court in the case of the Union of India Vs. Ashish Agarwal, Civil Appeal 3005/2022, dated 4<sup>th</sup> May, 2022.

Suggesting that income chargeable to tax has escaped assessment within the meaning of section 147 of the Act. Order under sub-section (d) of section 148a of the Act has been passed in such case vide DIN ITBA/COM/F/17/2022-23/1043933326(1) dated 19/07/2022 and annexed herewith for reference,

(B)  I have information that a search was initiated under section 132 of the Act in your case or in the case of the person in respect of which you are assessable under the Act on the date-----

requisitioned under section 132A of the Act in your case or in the case of the person in respect of which you are assessable under the Act.

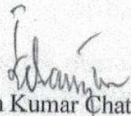
(C)  I have information that books of accounts, other documents or any assets have been requisitioned under section 132A of the Act in your case or in the case of the person in respect of which you are assessable under the Act.

(D)  I am satisfied, with the approval of Principal Commissioner or Commissioner, that money, bullion, jewellery or other valuable article or thing, seized or requisitioned under section 132 or section 132A of the Act in case of relate to you or the person in respect of which you are assessable under the Act

(E)  I am satisfied, with the approval of Principal Commissioner or Commissioner, that books of accounts or documents, seized or requisitioned under section 132 or section 132A of the Act in case of---  
--- pertains or pertain to, or any information contained therein, relate to you or the person in respect of which you are assessable under the Act.

2. I, therefore, propose to assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for the Assessment Year 2015-16 and I, hereby, require you to furnish, within 30 days from the service of this notice, a return in the prescribed form for the Assessment Year 2015-16.

3. This notice is being issued after obtaining the prior approval of the CCIT on date 13/07/2022 Vide reference no. F.NO.CCIT/RPR/Tech/148/2022-23/609.

  
(Tapan Kumar Chatterjee)  
Asstt. Commissioner of Income Tax  
Circle-1(1), Raipur

15. We find that on the same legal aspect, the **Co-ordinate Bench of the Tribunal, ITAT, Chennai** in the case of **Smt. Lakshmi Narsimhan**

**Santhi Vs. ACIT (2025) 176 taxmann.com 257 (Chennai-Trib.)** has held

and observed as follows:

“2. Brief facts of the case are as follows: The assessee is an individual. For the assessment year 2013-14, the return of income was filed on 26.03.2024 declaring total income of Rs.14,19,860/-. Subsequently, a notice u/s.148 of the Act was issued on 30.06.2021 as per the old regime within the extended time limit in view of Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (TOLA). The reason for issuing notice u/s.148 of the Act was that assessee along with seven co-owners had sold an immovable property during the relevant assessment year, which suggested escapement of income. Later on, as per CBDT's instruction No. 1/2022 of F.No.279 /Misc. /M-51/2022-ITJ dated 11th May 2022 on Implementation of judgment of Hon'ble Supreme Court dated 04.05.2022 in the case of Union of India Vs. Ashish Agarwal reported in 441 ITR 1, adjudicated on the validity of issue of reassessment notice issued during the period from 01.04.2021 to 30.06.2021 within the time extended by TOLA, 2020, the information and material relied upon for issuance of extended reassessment notice dated 30.06.2021 was communicated to the assessee vide letter dated 02.06.2022. In response to the said communication issued on 02.06.2022 in accordance with directions issued by CBDT in implementation of judgment of Hon'ble Supreme Court, the assessee submitted response on 11.06.2022 which was duly considered while passing order u/s 148A(d) dated 28.07.2022 followed by issue of notice u/s 148 dated 28.07.2022 with prior approval of the competent authority. The assessment proceeding for the AY 2013-14 was completed u/s 143(3) r.w.s 147 of the Act on 24.05.2023 wherein addition of Rs. 97,09,569/- was made on account of long term capital gains which the assessee failed to offer in ITR filed for the AY 2013-14.

3. Aggrieved by the said assessment order the assessee filed appeal before the First Appellate Authority (FAA) raising several grounds of appeal. The FAA after considering all the aspects (factual and legal) of the case, partly allowed the appeal of the assessee subject to verification by the AO on certain aspects before allowing such reliefs.

4. Aggrieved by the order of the FAA dated 04.09.2024, the assessee filed appeal before the Tribunal. The assessee, vide additional submissions dated 18.03.2025 and 24.04.2025

questioned the jurisdictional issues relying on the Hon'ble Apex Court's judgment in the case of Rajiv Bansal vs Union of India reported in 469 ITR 46 (SC).

5. The Ld.AR submitted that notice u/s.148 of the Act dated 28.07.2022 is time barred and liable to be set aside as the said notice is beyond "surviving period" as specified in para 114(g) and 114(h) in the judgment of the Hon'ble Apex Court in the case of Rajeev Bansal, supra.

6. The Ld.DR submitted that the notice u/s.148 of the Act as per the old regime read with TOLA 2022 was issued on 30.06.2021. The AO considering the Hon'ble Apex Court Judgment in the case of Union of India vs. Ashish Agarwal reported in 441 ITR 1 and the CBDT Instruction No.1/2022 dated 11.05.2022 had followed the procedure laid down by the Hon'ble Apex Court. Hence, the notice issued is not barred by limitation.

7. We have heard rival submissions and perused the material on record. The Finance Act, 2021 revamped the entire scheme of reassessment procedure u/s 147 to 151, w.e.f 01.04.2021. Thus, the old regime of re-assessment ended on 31.03.2021 and the new regime of re-assessment started from 01.04.2021. Due to COVID-19, the Government introduced the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (TOLA), extending time limits. Accordingly, the time available for the Department to issue notice u/s 148 of the Act under Old Regime, falling during the period from 20.03.2020 till 31.03.2021, were extended till 30.06.2021. The starting point of these entire chain of litigation was that, since the Old regime of re-assessment had ended on 31.03.2021, was it valid to issue notice based on an ended regime during the extended period of 01.04.2021 to 30.06.2021. Further, to issue notice under New Regime, required a notice u/s 148A(b) and an order passed u/s 148A(d).

8. The Hon'ble Supreme Court resolved this issue in the case of UOI & Ors Vs Ashish Agarwal reported in 444 ITR 1, by exercising powers under Article 142 of the Constitution of India. The Hon'ble Supreme court in Para-10(i) held that the notice u/s 148 of the Act issued under Old Regime between the period of 01.04.2021 to 30.06.2021, shall be deemed to be a show cause notice u/s 148A(b) of the New Regime and that the AO shall provide information and materials relied upon by revenue within 30 days of the judgment, so that assessee can reply within two weeks thereafter. Accordingly,

the revenue assumed jurisdiction for all such cases, based on the judgment of Hon'ble Supreme Court in the case of Ashish Agarwal (supra) and went ahead with procedures culminating in assessment.

9. These assessments triggered a second round of litigation, primarily on the fact that, if the re-assessment notices issued u/s 148 of the New Regime were valid or not. In the Second round, the Hon'ble Supreme Court in the case of UOI & Ors Vs Rajeev Bansal, reported in 469 ITR 46, held that after exclusion of limitations, the notices u/s 148 of New Regime should be issued within the "SURVIVING PERIOD" and anything issued beyond surviving period is time barred and liable to be set-aside.

10. The Submission made before us is that the notice issued u/s 148 of the Act dated 28.07.2022, for AY-2013-14, in the case of the assessee is time barred as it was issued beyond the surviving period as specified in the case of Rajeev Bansal (supra). The relevant dates in the case of assessee are as follows:-

Serial	Particulars	Date
1)	Date of issuance of notice u/s. 148 of OLD regime during the period 01.04.2021 to 30.06.2021	30.06.2021
2)	Date of supply of information as per judgment of Asish Agarwal	02.06.2022
3)	Date of reply filed by the Assessee for the above	11.06.2022
4)	Date of passing of order u/s 148A(d)	28.07.2022
5)	Date of issue of notice u/s 148 of New Regime	28.07.2022

11. The manner of computation of surviving period and limitation, as provided in case of Rajeev Bansal (supra), are as follows: 1st. Surviving period is calculated by computing the number of days between the date of issuance of the deemed notice and 30th June, 2021 (Para-108) 2nd. The surviving period starts ticking from the date of receipt of response by AO (Para-111 & 112) 3rd. The AO has to consider

response of the Assessee u/s 148A(c), pass order u/s 148A(d) and issue notice u/s 148 of New regime, all these procedures has to happen within the surviving period (Para-111) 4th. Only notices issued within the surviving period calculated from the date of receipt of response by AO is valid. The notices issued beyond surviving period is time barred and liable to be set-aside (Para-113 and 114(g) & 114(h))

12. Applying the above principles laid down by the Hon'ble Supreme Court to the facts of the instant case and adopting a conservative computation, notice issued u/s.148 of the Act will time barred by 35 days as detailed below (The judgment of Hon'ble Apex Court in the case of Rajeev Bansal, supra does not specify the application of fourth proviso of section 149(1), which governs time limit for notice u/s.148 of the Act. Still in the below computation, we have taken the outer limit of 7 days extension)

Serial	PARTICULARS	COMPUTATION	DESES
1	Date of issue of Original Notice u/s 148 within TOLA Period	A	30-06-2021
2	Last date of TOLA	B	-2-26-2021
3	Balance (On Inclusive method)	C = B - A	1
4	Minimum days available as per 4th Proviso of Section 149(1)	D	7
5	Then SURVIVING PERIOD (Para-108 to 113 of Rajeev Bansal)	E (Higher of C & D)	7
6	Date of response filed by Appellant to 148A(b) notice	F	11-06-2022
7	Date on which Period of two weeks allowed to assessee to respond to notice ends (deemed stay as per 3rd proviso to section 149 and Para 114 (g) of Rajeev Bansal)	G	16-06-2022
8	Last date for issuing notice u/s 148 [i.e., 16.06.2022+ 7 days]	H = E + G	23-06-2022
9	Actual date of issuance of notice u/s 148	H	-2-22-2022
10	Then Notice is time Barred by (Para 114 (H) of Rajeev Bansal)	I = H - G	35

13. The judicial precedents upholding the above proposition are as follows:-

i. Judgment of Jurisdictional Madras High Court in Mrs.Thulasidass Prabavathi Vs ITO [W.P.No.19010 of 2022] (Para-16 & 17)

ii. Judgment in ACIT Vs Amit Jain SLP (Supreme Court) (Civil) Diary No.32211/2024 (303 taxman 163) (Para-2 to 4)

iii. Judgment of KULWANT SINGH & ORS. vs. UNION OF INDIA & ORS (341 CTR (P&H) 700) (Para-6 & 8)

iv. Judgment of Delhi High Court in RAM BALRAM BUILDHOME PVT. LTD Vs ITO & Ors [W.P.(C) 16232/2024] (reported in (2025) 9 NYPCTR 157 (Delhi) ) (Para-65 to 73)

v. Judgment of Delhi High Court in KANWALJEET KAUR & ORS Vs ACIT Delhi[W.P.(C) 3908/2023] (Para-24 & 28)

vi. Order of ITAT Raipur in M/s. Kachrual Jitendra Kumar Vs The ITO [ITA No.307/RPR/2024] (Para-23 to 25)

vii. Order of ITAT Raipur in DCIT VS Shri Vinay Agrawal [ITA No: 29 & 30/RPR/2025] (Para-19 & 20)

viii. Order of ITAT Mumbai in ACIT Vs Ramchand Thakurdas Jhamtani [ITA No. 3553/MUM/2024] (Para-9 & 10)

ix. Order of ITAT Mumbai in ITO Vs Sumitra Rajeshbhai Jain [ITA No. 3553/MUM/2024] (Para-22 & 23)

x. Order of ITAT Mumbai in Nilanjana Arvinder Singh Vs DCIT [ITA No.6140/MUM/2024] (Para-30 & 31)

xi. Order of ITAT Mumbai, in DCIT Vs Larsen & Toubro Ltd in ITA No-5743 & 5745 of 2024, reported in 173 taxmann.com 582 (para-10.2)

xii. Order of ITAT Pune in DCIT VS Kolte Patil [ITA Nos. 2011 & 2023/Pune/2024; Asst. yrs. 2014-15 & 2016-17], reported in (2025) 235 TTJ (Pune) 113 : (2025) 39 NYPTTJ 552 (Pune) (Para-45)

14. The above judicial precedents have categorically upheld the above proposition and has held the notice to be time barred if they are beyond surviving period. We notice that ITAT Pune SMC Bench, in the case of Pushpadevi Shivilal Rathi Vs ITO in ITA No.1995/PUN/2024 for AY-2014-15, had held against the assessee. However, subsequently co-ordinate Bench of ITAT Pune in the case of DCIT VS Kolte Patil reported in (2025) 235 TTJ (Pune) 113 had decided the issue in favour of assessee.

15. Report of AO dated 09.06.2025 before us confirms the relevant dates and AO has not contradicted the ratio laid down in case Rajeev Bansal, supra. The AO has only stressed that the 148A(d) order and the notice u/s 148 of new regime, both dated 28.07.2022, were within the period, as specified in 148A(d), of one month from the end of the month in which

reply is received. However, this issue has been elaborately dealt with by Hon'ble Supreme Court in the case of Rajeev Bansal (Supra) and also by other judicial forums. The Hon'ble Delhi High Court at Para-71 in the case of Ram Balram Buildhome (Supra), has held that the time available u/s 148A(d) was "necessarily truncated" and the same was required to be passed within the surviving period.

16. Further, Hon'ble jurisdictional Madras High Court in the case of Mrs.Thulasidass Prabavathi (Supra) has held the notice u/s 148 issued beyond surviving period to be time barred. In Para-4 & 5 of the judgment, clearly specify the dates and events. In that case, the notice u/s 148 of old regime was on 21.06.2021, the reply was filed by assessee on 31.05.2022 and the order u/s 148A(d) / 148 Notice was issued on 30.06.2022. Even though as per 148A(d), the AO had time of one month from the end of the month to pass the order (In this case such time happens to be 30.06.2022), the same was truncated to the extent of surviving period and the notice was held to be time barred. Hence, legal contention raised by Ld.AR is squarely covered in favour of assessee.

17. In view of the above judgment of Hon'ble Supreme Court and Hon'ble Jurisdictional Madras High Court, we hold that the notice dated 28.07.2022 issued u/s 148 of the New Regime in respect of assessment year 2013-14 is time barred and re-assessment order pursuant to the same is set-aside.

18. In the result, the appeal filed by the assessee is allowed."

16. Further, the **Hon'ble High Court of Madras** in the case of **Mrs. Thulasidas Prabavathi Vs. ITO (2025) 174 taxmann.com 508 (Madras.)** on the similar issue has held and observed as follows:

"17. Dealing with almost an identical situation pursuant to the decision of the Hon'ble Supreme Court in Union of India Vs. Rajeev Bansal, 2024 SCC OnLine SC 2693, the Delhi High Court quashed the notice dated 31.03.2021 issued to the assessee under Section 148 of the Act and the proceedings. Since the law laid down by the Hon'ble Supreme Court in Union of India Vs. Rajeev Bansal, 2024 SCC OnLine SC 2693 is a settled law, it is binding on this Court. I am therefore unable to take a contra view in the light of the

aforesaid decision of the Hon'ble Supreme Court in Union of India Vs. Rajeev Bansal, 2024 SCC OnLine SC 2693.

18. Therefore, this Writ Petition deserves to be allowed and is accordingly allowed.”

17. Similarly, the **ITAT, Raipur** in the case of **Deputy Commissioner of Income Tax-1(1), Raipur Vs. Shri Vinay Agrawal, ITA Nos. 29 & 30/RPR/2025 and CO Nos. 2 & 3/RPR/2025, dated 17.02.2025** on the same issue has held and observed as follows:

“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 Kachrural 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 Agarwal<sup>2</sup> 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 Agarwal<sup>2</sup> till the date of providing material, as required to be 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 Bansal<sup>4</sup>.

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.”

18. Respectfully following the aforesaid judicial pronouncements on the same parity of reasoning and on examination of the aforesaid parameters regarding reopening proceedings, we hold that such reassessment is barred by limitation and hence does not have any legal validity, therefore, the same is quashed.

19. Since the reassessment is quashed thereafter all the other subsequent proceedings becomes non-est in the eyes of law.

20. That as per the aforesaid terms the application filed by the assessee under Rule 27 of the ITAT Rules, 1963 is allowed. Since the impugned order i.e. order of the Ld. CIT(Appeals)/NFAC had become non-est, the appeal preferred by the revenue against non-est order becomes infructuous and hence dismissed.

21. In the result, appeal of the revenue in ITA No.270/RPR/2025 for A.Y.2015-16 is dismissed.

22. In the combined result, both the appeals of the revenue are dismissed.

Order pronounced in the open court on 31<sup>st</sup> day of July, 2025.

Sd/-  
**ARUN KHODPIA**  
**(ACCOUNTANT MEMBER)**

Sd/-  
**PARTHA SARATHI CHAUDHURY**  
**(JUDICIAL MEMBER)**

रायपुर/ RAIPUR ; दिनांक / Dated : 31<sup>st</sup> July, 2025.

SB, Sr. PS

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

1. अपीलार्थी /The Appellant.
2. प्रत्यर्थी /The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,  
रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

**// True Copy //**

Senior Private Secretary  
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.