

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER  
AND  
SH. UDAYAN DASGUPTA, JUDICIAL MEMBER  
(Hybrid Hearing)**

**I.T.A. No. 698/Asr/2024  
Assessment Year: 2013-14**

Sainik Co-operative House Building Society Ltd. [PAN:-AACAS9463J] (Appellant)	Vs.	ITO, Ward-1,(1), Jammu.  (Respondent)
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<b>Appellant by</b>	Sh. Rohit Kapoor, CA & Sh. V.S. Aggarwal, ITP,
<b>Respondent by</b>	Sh. Charan Dass, Sr. DR

<b>Date of Hearing</b>	10.07.2025
<b>Date of Pronouncement</b>	08.09.2025

**ORDER**

**Per: Udayan Dasgupta, J.M.:**

This appeal is filed by assessee against order of Ld. CIT (A), NFAC, Delhi, passed u/s 250 of the Act 1961, dated 14.11.2024 which has emanated from the order of the AO, W-(86) (1), dated 23/05/2023, passed u/s 147/144 of the Act 61.

2. The grounds of appeal in Form No. 36 are as under:

*“1. That the CIT(A) has erred in facts and in law in confirming the addition made by me AO at Rs. 7210627/- on account of cash deposited in bank vide order passed u/s 147 dated 14.11.2024*

2. *That the CIT(A) has erred in deciding the appeal in limine without adjudicating the case on merits.*
3. *That the CIT(A) has erred in confirming the addition without appreciating that the notice issued u/s 148 on 25.07.2022 is bad in law and is barred by limitation as per the directions given by Hon'ble supreme Court in the case of Union of India vs Rajeev Bansal [[2024] 167 taxmann.com 70 (SC)].*
4. *That the CIT(A) has erred in not appreciating that the order passed by the AO u/s 147 on 23.05.2023 is bad in law since, the jurisdictional notice issued u/s 148 on 25.07.2022 is bad in law.*
5. *That the CIT(A) has erred in not taking cognizance of the details of receipts and expenditure furnished in the return of income filed in response to notice issued u/s 148 whereby it was made clear that receipts and expenditure are duly supported by balance sheet, Profit & Loss account, etc.*
6. *That the CIT(A) has erred in confirming the addition made by the AO u/s 69A without appreciating that the provisions of section 69A can only be invoked in the case of unexplained investment not recorded in the books of account and not on account of cash deposited in bank.*

7. *That the CIT(A) has erred in confirming the addition made by the AO without allowing the benefit of returned income.*

7.1 *That without prejudice to the aforesaid, the CIT(A) has erred in not appreciating that the major cash deposited in the bank account was on account of receipts from school and as such only profit element could be deemed to be embedded in the receipts. That the CIT(A) has erred in not appreciating that such profit element was duly disclosed in the return of income and tax was duly paid on such income.*

8. *That the assessee craves leave to add, amend and withdraw any of the grounds of appeal.”*

3. Brief facts emerging from records are that the assessee an (AOP) has not filed any return for the year under appeal in normal course even though cash has been deposited in *State Bank of India* amounting to *Rs.72.10 lakhs*, prompting the AO to issue notice u/s 148 dated 25.07.22 (*after compliance with necessary procedure*). Though return has been filed on 18/08/2022, in response to such notice declaring total income of *Rs.13,52,900/-*, no subsequent compliances has been made to statutory notice issued u/s 143(2) and subsequent requisitions u/s 142(1), and without any satisfactory explanation to the source of cash deposited in bank , the assessment was completed on a total income of *Rs.85.63 lakhs (which include the amount of Rs.72.10 lakhs as addition u/s 69A)*.

4. The matter carried in appeal has been dismissed by the Id. first appellate authority in absence of any submission or any compliance to notices issued from the office of the appellate authority, by observing as follows:

*“3.7 From the afore-mentioned discussion, it is clear that no written submissions have been made at appellate level. Therefore, it is stated that no useful purpose would be served by keeping the appeal pending and therefore the appeal is decided on the basis of documents available on record. There may be various reasons with the appellant to remain absent at the time of hearing. One of the reasons may also a desire or absence of need to prosecute the appeal or inability to assist in the appellate proceeding in a proper manner or to take benefit of vagaries of law. -cwever, the exact reasons for non-attendance/non-submission are only known to the appellant. The CIT (Appeal) can under such circumstances, invoke the inherent powers vested therein. These powers are embedded with certain inherent obligations also. One of such obligations is that the appellant must not be deprived of being heard. Therefore, the easiest way for appellant in this case was to furnish the written submission in support of grounds of appeal. But instead, the appellant in this case not only chose to ignore the date of hearing but even did not furnish any submissions.*

*3.8 Considering the above discussion and facts, it is clear that the appellant assessee is not pursuing its case on merits. In pursuance of its appeal the appellant assessee did not file any documents in support of its claim that why addition of Rs. 70,10,627/- is not sustainable. The*

*appeal cannot be decided merely on the basis of grounds of appeals and statement of facts as no corroborative evidence of any kind has been submitted by the appellant assessee. Based on these observations the appeal filed by the appellant assessee is dismissed and the order of the AO is confirmed.*

*In result the appeal is hereby dismissed.”*

5. Now the assessee is in appeal before the tribunal on the ground contained in the memorandum of appeal. In course of appellate proceedings, the assessee has filed a short paper book containing the notice u/s 148 dated 7<sup>th</sup> June, 2021 (*as per regime existing prior to 31<sup>st</sup> March, 2021*), notice u/s 148A(b) dated 20.05.2022, copy of order u/s 148A(d) dated 25.07.2022 along with fresh notice issued u/s 148 dated 25.07.2022.

6. The legal issues agitated in grounds 1 to 4 are taken up first. The ld. AR submitted that the first notice u/s 148 dated 7.06.2021 was unsustainable in law as it was issued in accordance with the old regime as existed prior to 31.03.2021. Subsequently, following the decisions of Hon'ble Apex Court in the case of *Union of India vs. Ashish Aggarwal* dated 04.05.2022, where the Hon'ble Court held that amended provisions would be applicable to notices issued after 31<sup>st</sup> March 2021, and further directed that notice already issued u/s 148 of the Act between the period 1.04.2021 to 30.06.2021 (*including those that has been set aside by the High Courts*) would constitute a show cause notice issued u/s 148A(b), following which the AO

provided all information and materials to the assessee on 20<sup>th</sup> May, 2022 , allowing the assessee time to respond to such notices by 2<sup>nd</sup> June, 2022.

6.1 The ld. AR pointed out that the original notice *u/s 148 dated 07.06.2021* was issued *24 days (twenty four days)* before the expiry of the limitation period *i.e. 30.06.2021*, therefore, in the instant case the *surviving period*, was *24 days (i.e. from 7<sup>th</sup> June 2021 to 30.06.2021)*.

6.2 He further submitted that since the *surviving period* is required to be added to the *statutory time period* granted to the assessee for furnishing a reply, in the instant case, the notice *u/s 148A(b)* was issued on *20.05.2022* and the reply was required to be submitted by **2<sup>nd</sup> June 2022**, and the surviving period of *24 days* is required to be added to the *reply time line of 2<sup>nd</sup> June 2022*, which extends the revised timeline till **26<sup>th</sup> June, 2022** , for issue of notice *u/s 148*, under the new regime and in the instant case, the notice issued on **25<sup>th</sup> July, 2022**, is barred by limitation.

6.3 The AR further referred to the observation of the *Hon'ble Supreme Court* in the case of *Rajeev Bansal [2024] 167 taxmann.com70(SC)* where the Hon'ble Court has explained the concept of surviving period and its impact on validity of notice by providing an illustration.

He referred to paragraph number – 108 of the Hon'ble courts observation (*reproduced*):

**Paragraph 108:** *The Income-tax Act read with TOLA extended the time limit for issuing reassessment notices under section 148, which fell for completion from 20<sup>th</sup> March 2020 to 31 March 2021, till 30 June 2021. All the reassessment notices under challenge in the present appeals were issued from 1 April 2021 to 30 June 2021 under the old regime. Ashish Agarwal (supra) deemed these reassessment notices under the old regime as show cause notices under the new regime with effect from the date of issuance of the reassessment notices. The effect of creating the legal fiction is that this Court has to imagine as real all the consequences and incidents that will inevitably flow from the fiction. East End Dwellings Co. Ltd. v. Finsbury Borough Council [1952] AC 109. [Lord Asquith, in his concurring opinion, observed: "If you are bidden to treat an imaginary state of affairs as real, you must surely, unless prohibited from doing so, also imagine as real the consequences and incidents which, if the putative state of affairs had in fact existed, must inevitably have flowed from or accompanied it."] Therefore, the logical effect of the creation of the legal fiction by Ashish Agarwal (supra) is that the time surviving under the Income-tax Act read with TOLA will be available to the Revenue to complete the remaining proceedings in furtherance of the deemed notices, including issuance of reassessment notices under section 148 of the new regime. The surviving or balance time limit can be calculated by computing the number of days between the date of issuance of the deemed notice and 30 June 2021.*

6.4 Thereafter, he referred to the observation of the Hon'ble court in paragraph – 112, of the order, where an illustration is provided for calculation of time limit (*paragraph reproduced*):

*( Paragraph – 112 ) Let us take the instance of a notice issued on 1 May 2021 under the old regime for a relevant assessment year. Because of the legal fiction, the deemed show cause notices will also come into effect from 1 May 2021. After accounting for all the exclusions, the assessing officer will have sixty-one days [days between 1,May2021 and 30 June 2021] to issue a notice under | section 148 of the new regime. This time starts ticking for the assessing officer after receiving the response of the assessee. In this instance, if the assessee submits the response on 18 June 2022, the assessing officer will have sixty-one days from 18 June 2022 to issue a reassessment notice under section 148 of the new regime. Thus, in this illustration, the time limit for issuance of a notice under section 148 of the new regime will end on 18 August 2022.*

7. Referring to the above observation the Ld AR retreated that 'surviving period' is required to be added to the statutory time period granted to the assessee for furnishing a reply to a notice issued u/s 148A(b) of the Act, and in the present case, the information along with materials, under Section 148A(b) was provided to the assessee on 20th May 2022, and the reply was required to be submitted by 2nd June 2022 (*as per notice placed in page 2 and 3 of PB*). Accordingly, the surviving period of 24 days (*twenty four days*) is required to be added

to the reply time line i.e. 2<sup>nd</sup> June, 2022 plus twenty four days, and revised time line is 26<sup>th</sup> June, 2022 i.e. the final date before which notice u/s 148 under new regime should be issued. However, in the present case, notice u/s 148 under new regime was issued on 25.07.2022 ( 25<sup>th</sup> July, 2022) which is beyond the said period of extended time frame (notice placed in Page 6-7 of PB) and the notice being beyond the period of limitation, is bad in law.

<i>Original Notice u/s 148 dated 07.06.2021 (under old law as existing prior to 31<sup>st</sup> March 21)</i>
<i>Time available till 30.06.2021 (24 days surviving from 07<sup>th</sup> June, 2021)</i>
<i>Material provided on i.e. Notice u/s 148A(b) dated 20.05.2022 ( 20<sup>th</sup> may, 2022 )</i>
<i>Due date allowed for filing response vide above notice 02.06.2022 ( 2<sup>nd</sup> June, 2022 )</i>
<i>Surviving period being 24 days, notice u/s 148 ( under new regime ) time barring date is 26<sup>th</sup> June, 2022.</i>
<i>Notice u/s 148 ( under new regime ) actually issued on 25<sup>th</sup> July, 2022 ( is barred by limitation ).</i>

7.1 Thereafter, he pointed out to the copy of the notice issued u/s 148 dated 25.07.2022 (placed in paper book page no. 6 and 7) to argue that the said notice is beyond the said period of limitation which makes the notice invalid and bad in law.

7.2 In support of his contention he relied on various judgments of various courts some of which are as follows:

[2025] 175 taxmann.com 256 (Delhi)HIGH COURT OF DELHI

Samajwadi Party v. Deputy Commissioner of Income-tax,

Exemption :

*Section 148, read with section 149, of the Income-tax Act, 1961 - Income escaping assessment - Issue of notice for (Period of limitation) - Assessment year 2014-15 – Assessee filed instant petition impugning reassessment notice issued under section 148 on 31-8-2022 pursuant to original notice dated 28-06-2021 (issued under old law) which was deemed to be notice under section \_148A(b) in view of Supreme Court ruling in Union of India v. Ashish Agarwal I [2022] 138 taxmann.com 64/286 Taxman 183/444 ITR 1 (SC) - It was noted that Assessing Officer had two days to issue notice under section 148 after receipt of assessee's reply - Said time expired on 16-6-2022 - However, impugned notice was issued on 31 -5-2022, which was beyond said period - Whether, therefore, notice was beyond period of limitation -Held, yes [Para 8] [In favour of assessee]*

Ram Balram Buildhome (P.) Ltd, vs. Income-tax Officer [2025]

171 taxmann.com 99 (Delhi)[30-01-2025]

*Section 149, read with section 148A, of the Income-tax Act, 1961 and section 3 of the Taxation and Other Laws (Relaxation and Amendments of Certain Provisions) Act, 2020 - Income Escaping Assessment - Time limit for issuance of notice (Reassessment) - Assessment year 2013-14 - Assessee-company filed instant writ on ground that a notice dated 01-06-2021 issued under section 148 and notice under section 148A(b)*

*issued on 30-5-2022 in furtherance of notice dated 1-6-2021 and impugned order passed under section 148A(d) and notice issued under section 148 issued on 30-7-2022 were beyond period of limitation as provided under section 149(1) - It was noted that last date for issuance of notice under section 148 for assessment year 2013-14 under statutory framework, as was existing prior to 1-4-2021 was 31-3-2020 and by virtue of section 3(1) of TOLA, it was extended till 30-6-2021 and, thus, notice dated 1-6-2021 was issued twenty-nine days prior to expiry of period of limitation for issuing a notice under section 148 as was extended by TOLA - It was further noted that period from 1-6-2021 and date of decision of Supreme Court on 4-5-2022 in Union of India v. Ashish Agarwal [2022] 138 taxmann.com 64/286 Taxman 183/444 ITR 1 and period from date of said decision till date of providing material, as required to be accompanied with a notice under section 148A(b), was required to be excluded by virtue of third proviso to section 149(1) - Further, time granted to assessee to respond to notice dated 30-5-2022 was also required to be excluded by virtue of third proviso to section 149(1) - Whether by virtue of TOLA, Assessing Officer had period of twenty-nine days limitation left on date of commencement of reassessment proceedings, which began on 1-6-2021. to issue a notice under section 148 and said notice was required to be accompanied by an order under section 148A(d), thus, an order under section 148A(d) was required to be passed within said twenty-nine days notwithstanding time stipulated under section 148A(d) - Held, yes - Whether since assessee had furnished its response to notice under section 148A(b) on 13-6-2022, time available to Assessing*

*Officer to pass an order under section 148A(d) was necessarily truncated and same was required to be passed on or before 12-7-2022 - Held, yes - Whether thus, impugned notice dated 30-7-2022 had been issued beyond period of limitation and was to be set aside - Held, yes [Paras 69, 71 and 72] [In favour of assessee]*

2025 (6) TMI 1484 - ITAT DELHI HARISH KUMAR VERSUS NFAC, DELHI AND ACIT, NEW DELHI VERSUS HARISH KUMAR

*Validity of reopening of assessment - period of limitation - Scope of TOLA - Period of limitation under new tax regime - Notice issued old law - HELD THAT:- 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. Upon considering the period of exclusion prescribed by the Hon'ble Apex Court in the case of UOI vs. Rajeev Bansal [2024 (10) TMI 264 - SUPREME COURT (LB)] 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. 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. 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. 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 u/s 147 r.w.s Section 144B of the Act dated 29.05.2023 also deserve to be quashed. Decided in favour of the assessee.*

2025 (6) TMI 1230 - GUJARAT HIGH COURT, KRISHNA NAITIK PATEL PQA HOLDER OF ISHWERBHAJ KESHAVBHAJ PATEL VERSUS ASSESSMENT UNIT INCOME TAX DEPARTMENT & ANR

*Reopening of assessment - Period of limitation under new tax regime - validity of the notice issued under TOLA between 31.3.2021 and 30.6.2021 - HELD THAT:- Respondent could not controvert the facts that as per the decision of the Hon'ble Apex Court in case of Union of India v. Rajeev Bansal [2024 (10) TMI 264 - SUPREME COURT (LB)] the notice dated 21.7.2022 would be a time barred notice and in turn the notice dated 30.6.2021 would be an invalid notice, as per aforesaid observations made by the Apex Court.*

*Considering the above facts, there is a notice dated 30.6.2021, only one-day time was left for the issuance of the notice under Section 148 after granting 14 days time to the assessee from the decision of Union*

*of India v. Ashish Agarwal, the date of issuance of the notice under Section 148 would be 12.6.2022, whereas in the facts of the case the notice under Section 148 is issued on 21.7.2022 and as such the notice dated 30.6.2021 would be an invalid notice. In the result, the petition succeeds only on this ground.*

2025 (6) TMI 1309 - ITAT MUMBAI MRS. NAYNA ASHOK SHAH  
VERSUS INCOME TAX OFFICER-20 (2) (1), MUMBAI :

*Validity of notice issued u/s. 148 of the new regime being beyond the period of limitation - HELD THAT:- Admittedly, notice under old provision of the Section 148 was issued to the assessee on 20/06/2022. As per the table in the decision Hon'ble Supreme Court in case of UOI vs. Ashish Agarwal [2022 (5) TMI 240 - SUPREME COURT] 3 years expired on 31/03/2021. By virtue of ratio laid down by Hon'ble Supreme Court in case of UOI vs. Ashish Agarwal [2022 (5) TMI 240 - SUPREME COURT] notices issued between 01/04/2021 and 30/06/2021 was deemed to be issued as on 31/03/2021 and thus extended period to complete the procedure as per the new provisions of Section 148A was available only till 30/06/2021 for A.Y.2017-18. Thus in the present facts of the case, the revenue only had 20 days to complete the entire procedure u/s. 148(1) of the new regime and to issue notice u/s. 148 in the new regime. The procedure was completed u/s. 148A and the notice u/s. 148 of the new regime was issued on 20/07/2022. The notice thus issued is beyond the period of limitation and deserves to be quashed. As notice u/s. 148 is quashed the*

*reassessment order passed dose not survive and will be treated as void ab initio accordingly the assessee succeeds on the legal issue raised.*

2025 (2) TMI 55 - DELHI HIGH COURT Other Citation:  
2025:DHC:547 - DBRAM BALRAM BUILDHOME PVT. LTD.  
VERSUS INCOME TAX OFFICER AND ANR :

*Validity of reopening of assessment beyond period of limitation - applicability of the TOLA in the context of provisos to Section 149 (1) of the Act - whether the impugned order and the impugned notice was Issued beyond the period as prescribed u/s 149 (1)? - HELD THAT:- 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. 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 u/s 148 - The said notice was required to be accompanied by an order u/s 148A (d) - AO was required to pass an order under Section 148A (d) within the said twenty-nine days notwithstanding the time stipulated u/s 148A (d) of the Act. This period expired on 12.07.2022. Since the period of limitation, as provided u/s 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. Time available to the AO to pass an order under Section 148A (d) of the Act was necessarily truncated and the same was required to be passed on or before 12.07.2022. The fourth proviso to Section 149 of the Act did not come into play as the time period available for the AO to pass an order u/s 148A (d) of the Act was in excess of the seven days. Thus, we find merit in assessee contention that the impugned notice dated 30.07.2022 has been issued beyond the period of limitation. Petition is allowed and the impugned order passed u/s 148A (d) and impugned notice issued u/s 148 quashed - Decided in favour of assessee.*

2025 (5) TMI 722 - BOMBAY HIGH COURT Other Citation:  
2025:BHC - GOA:868 - DB GURPREET SINGH VERSUS DEPUTY  
COMMISSIONER OF INCOME TAX )

*Reopening of assessment u/s 147 - period of limitation - notices issued u/s 148 of the old regime - HELD THAT:- A notice under Section 148 of the IT Act accompanied by an order under Section 148A (d) is required to be issued within the time stipulated under Section 149 of the IT Act. Section 148A (d) does not govern the computation of time as contemplated in terms of Section 149 of the IT Act. The entire process under Section 148A(a) to (d) and the issuance of notice under Section 148 has to be completed within the total time available in terms of Section 149 (1) of the IT Act for issuance of notice under Section 148. A notice issued under Section 148 of the IT Act which is beyond the time line stipulated under Section 149 (1) is non-complaint and invalid. The*

*timeline under Section 148A (d) is for the Assessing Officer to comply with the stipulations and the streamlining contemplated under Section 148A. This is primarily to bring in transparency and accountability into the system and is intended for the benefit of the assessees. However, to suggest that Section 148A (d) extends the time limit u/s 149 (1) and/or has a bearing on the time under Section 149 (1) is a submission which is misconceived and lacks legal sanctity. Delhi High Court in Ram Balram Buildhome Pvt. Ltd. [2025 (2) TMI 55 - DELHI HIGH COURT] applying the ratio of the decisions in Ashish Agarwal and Rajeev Bansal (supra) came to the conclusion that the remainder period with the Assessment Officer was twenty-nine days from 01/06/2021 when the reassessment proceedings commenced for issuing notice under Section 148 of the IT Act. The limitation for passing of the order under Section 148A (d) expired on 12/07/2022. Accordingly, the notice under Section 148A of the IT Act issued on 30/07/2022 was held to be beyond limitation and the same was quashed. The Delhi High Court also relied on the observations made in the case of Raminder Singh [2023 (9)' TMI 985 - DELHI HIGH COURT] wherein it was held that one month from the end of the month in which the time available to the assessee to respond to the notice under clause (b) of Section 148A expires is available to the Assessment Officer to pass an order under Section 148A (d) of the IT Act. It was further held that notice under Section 148 of the IT Act that is not accompanied by an order under Section 148A (d) of the Act would be non-compliant with the IT Act and no such notice could be issued beyond the period as specified under Section 149 (1) of the IT Act. This decision of the Delhi High Court is consistent*

*with our view based on the interpretation of the decisions in Ashish Agarwal [2022 (5) TMI 240 - SUPREME COURT] and Rajeev Bansal [2024 (10) TMI 264 - SUPREME COURT (LB)]. Thus, we hold that the notice issued by Respondent No. 1 under Section 148 of the IT Act is beyond the time period specified u/s 149 (1) of the IT Act. Assessee appeal allowed.*

8) The Ld AR concluded his arguments submitting that from the above facts and circumstances, it is evident that the notice issued under Section 148 dated 26th July 2022 is barred by limitation, considering the factual matrix of the case and the settled principles of law and prayed for quashing of the reassessment proceedings initiated under Section 148 as being void ab initio.

8.1) Relying on the above judgments he prays that in the instant case, the notice issued u/s 148 dated 25.07.2022 is barred by limitation and since the notice itself is void ab initio the entire proceedings are to be cancelled. Before concluding the ld AR however, has withdrawn his grounds of appeal No. 1, 5 and 6 ( *contained in form 36* ) which are on merits, and has rested his arguments only on the legal aspect of the matter.

9. The ld. DR relied on the order of the ld. CIT(A) and has also filed written submissions which are reproduced as below:

*“(1) Not raised before the authorities below and require investigation of facts and not going to the root of the matter is not justified.*

*(2) Original Notice u/s 148 ( page 1 of paper book of assessee) is issued*

*on 7-6-2021 and is valid as per CBDT instruction no 1/2022 dated 11-5-2022 and as concluded in para 6.1 and 6.2 of instruction in view of the SC judgment in Union of India vs Ashish Agarwal, has issued instructions that time extension provided by TOLA, with notification no 38 dated 27-4-2021 of Central govt extending time to issue notices upto 30-6-2021. (upto 30-6-2021) will allow extended reassessment notice to travel back in time to their original date when such notices were to be issued (ie 31-3-2021) and then new section 149 of the act is to be applied. (para 1.2 of assessment order)*

*Accordingly original notices issued upto 30-6-2021 (issued in this case is on 7-6-2021) is valid and further notice issued on 25-7-2022 as per new procedure is valid.(para 1.2 of assessment order ).*

*(3) Without Prejudice to above, it is prayed that matter be restored back to the file of AO to take appropriate action and to frame assessment in accordance with law.*

*It is well settled law that proceedings cannot be held non est and a nullity and required to continue from the stage at which the illegality has occurred by restoring the matter to the Assessing officer) and in support he has relied on the following case laws.*

*(i) Guduthur Bros, v. ITO [1960] 40 ITR 298 SC In our opinion, the notice issued to the appellants to show cause why penalty should not be imposed on them did not cease to be operative because the Appellate Assistant Commissioner pointed out an illegality which vitiated the proceeding after it was lawfully initiated. That notice having remained still to be disposed of, the proceedings now started can be described as during the course of the assessment proceedings, because the action will relate back to the time when the first notice was issued.*

*The Income-tax Officer is well within his jurisdiction to continue the proceedings from the stage at which the illegality has occurred and to assess the appellants to a penalty, if any, which the circumstances of the case may require” .*

*(ii) CIT vs JAI parkash Singh 219 ITR 437(SC) 1996.-holding that “The lack for a notice does not amount to the revenue authority having had no jurisdiction to assess, but that the assessment was defective by reason of*

*notice not having been given to her. An assessment proceeding does not cease to be a proceeding under the Act merely by reason of want of notice.*

*(iii) Vijay Sarin Vs. Income Tax Officer - [1993]202ITR249 (Delhi)-*

*The Income-tax Officer committed an error of procedure in not issuing notice to the legal representatives regarding further proceedings to be continued and therefore, the Appellate Assistant Commissioner and the Tribunal were right in coming to the conclusion that there is a procedural defect and not absence of jurisdiction and were right in remanding the matter to the Income-tax Officer for proceeding afresh from the stage at which it stood on the date of death of the deceased by issuing notice to the legal representatives.*

*In view of the above the Ld DR prayed that order of the Assessing officer be restored or matter restored back to the file of AO to take appropriate action and to frame assessment in accordance with law.”*

10. We have considered the materials on record and the rival submissions and we find that; in compliance with the directions issued by the Supreme Court in the case of Ashish Agarwal (supra), the Assessing Officer provided information and material to the Assessee on 20.05.2022. The Assessee was granted two weeks' time to respond to the said notice i.e. by 02.06.2022.

10.1 According to section 149 of the Income Tax Act, 1961, Period of six years from the end of relevant assessment year i.e. from 2013-14, got expired on 31.03.2020 and further time period was extended by the Taxation and Other Law Act, 2020 (TOLA) till 30.06.2021.

10.2 The next round of litigation arose before the Hon'ble Supreme Court, and in the landmark judgment of Union of India v. Rajeev Bansal dated 03.10.2024 reported in [2024] 167 taxmann.com 70 (SC) (please refer page 1-42 of the Case

Law PB), it was held that notices issued under the erstwhile Section 148 for Assessment Years 2013-14 and 2014-15 shall be deemed to be valid, provided they fall within the permissible time frame(surviving period) as preserved under the directions laid down in the said judgment.

The Hon'ble Supreme Court, in the case of Rajeev Bansal, has elaborated upon the concept of the 'surviving period' for determining the validity of notices issued under Section 148 after the pronouncement of the judgment in Union of India v. Ashish Aggarwal. This interpretation is specifically discussed in para no. 108 and 112 of the judgment.

The period from the date of the issuance of the erstwhile notice till 04.05.2022, the date on which the Supreme Court had rendered the decision in Ashish Aggarwal (supra) is required to be excluded.

Additionally, the time provided till the date of providing the material, which should have accompanied a notice under Section 148A(b) of the Act, as well as the time available to the assessee to respond to the said notice was also required to be excluded.

The 'surviving period' is required to be computed and separately added to determine the validity of the notice issued under Section 148. The surviving period is calculated by taking into account the number of days between the original date of issuance of the deemed notice under Section 148 and 30th June 2021, as clarified in judicial

pronouncements following the judgment in Ashish Agarwal and considering the entire facts of the case and the law laid down by the Hon'ble Apex court in the case of UOI v Rajeev Bansal dated 03/10/2024 ( supra ) , we are of the opinion that in the instant case the surviving period was of twenty four days and the revised timeline for issue of notice u/s 148( under the new regime ) expired on 26<sup>th</sup> June, 2022 and the notice issued in the instant case on 25<sup>th</sup> July, 2022, is clearly barred by limitation and the impugned reassessment proceedings dated 23<sup>rd</sup> May, 2023, passed u/s 147 rws 144 ( with 144B ) of the Act 61 , is not legally valid and the same is quashed.

11) The arguments of the Ld. DR revolved around the decision of the *Hon'ble Apex court in the case of Union of India vs Ashis Agarwal [2022] dated 4<sup>th</sup> May, 2022*, and he has never concentrated on the next round of litigation in the case of *Union of India vs Rajeev Bansal ( supra )* dated 3<sup>rd</sup> October, 2024 , where it was held that notices issued under the erstwhile section 148 for asst year 2013-14 and 2014-15 , shall be deemed to be valid , provided they fall within the permissible time frame ( *surviving period* ) as preserved under the directions laid down in the said judgment ( *specially paragraph 108 of the said decision ( already discussed above)* ). The remaining case laws relied upon by the Ld DR are factually different and does not relate to the issue at hand.

12) Since we have allowed the appeal of the assessee on the legal issue , the grounds of appeal on merits do not require any adjudication ( *more so considering the fact that the assessee has already withdrawn the grounds of appeal on merits in course of hearing*).

13) In the result the appeal of the assessee is allowed on the legal issue as indicated above.

**Order pronounced on 08.09.2025 under Rule 34(4) of the Income Tax Appellate Tribunal Rules 1963.**

Sd/-

**(MANOJ KUMAR AGGARWAL)**  
Accountant Member

Sd/-

**(UDAYAN DASGUPTA)**  
Judicial Member

AKV

Copy of the order forwarded to:

- (1)The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy  
By order