

IN THE INCOME TAX APPELLATE TRIBUNAL
“E” BENCH, MUMBAI
BEFORE SMT. BEENA PILLAI (JUDICIAL MEMBER)
AND
SHRI OMKARESHWAR CHIDARA (ACCOUNTANT MEMBER)

I.T.A. No. 1663/Mum/2025
Assessment Year: 2013-14

Kiran Kantilal Sanghvi C 201, Shree Vasudev Appartment, Mamletdar Wadi, Malad(W), Mumbai- 400064 PAN: AERPS0349K (Appellant)	Vs.	Income Tax Officer- 41(3)(2) Kautilya Bhavan, Bandra Kurla Complex, Bandra Mumbai- 400051 (Respondent)
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Appellant by	Shri M. Subramanian
Respondent by	Shri Hemanshu Joshi, SR. D.R.

Date of Hearing	11.09.2025
Date of Pronouncement	30.09.2025

ORDER

Per: Smt. Beena Pillai, J.M.:

The present appeal filed by the assessee arises out of order dated 27/01/2025 passed by NFAC, Delhi for assessment year 2013-14 on following grounds of appeal :

- “1. On the facts and in the circumstances of the case and in law, the re-assessment proceedings initiated is invalid and bad in law.*

2. *On the facts and in the circumstances of the case and in law, the assessment order passed u/s 147 r.w.s. 144B of the act is invalid and bad in law.*
3. *On the facts and in the circumstances of the case and in law, the learned C.I.T. (A) erred in dismissing the appeal and that too without dealing with the merits of the case.”*

Brief facts of the case are as under:

2. The assessee filed its return of income on 13/05/2013, declaring total income of Rs.1,51,580/-. The return was processed u/s.143(1) of the Act and the case was reopened passed on certain information based upon certain specific information regarding transaction undertaken in the nature of unsecured loans by the deceased assessee. The Ld.AO issued statutory notice which did not commensurate with the return of income filed.

2.1 The Ld.AO issued various notice u/s.143(1) and 143(2) of the Act against which no response was filed. Subsequently, the legal heir of the assessee furnished submissions on 28/01/2023, 18/02/2023, 02/05/2023, 04/05/2023 and 26/05/2023. The legal heir of the assessee furnished bank statement and other details regarding interest on the payment along with the ledger accounts. It was submitted that the deceased assessee was giving loan by taking loan and earned marginal spread between interest rates and she offered net interest on such activity. It was submitted that, the deposits were taken mainly from family members and the loans was advanced mainly to one Mr. Himmatlal Kachara, Sangeeta Kachara and Mr. Deven P Shah.

2.2 After considering the submissions of the assessee and the bank statements filed, the Ld.AO was of the opinion that

assessee did not establish creditworthiness of the loans/received with sufficient evidences. He thus made additions in the hands of the assessee amounting to Rs.5,36,93,726/- being the credits received from the loan lenders u/s.68 of the Act.

3. Aggrieved by the order of the Ld.AO the assessee is in appeal before this preferred appeal before Ld. CIT(A) who upheld action of Ld.AO.

4. Before this *Tribunal* the assessee has raised legal ground challenging validity of the notices issued u/s.148 under the new regime. The Ld.AR submitted that the first notice issued on 31/03/2021 u/s.148 of the Act is in the name of the deceased assessee being late Shantaben Kantilal Sanghvi and the said notice placed at page 10 of the paper book. On 14/04/2021 the legal heir of the assessee being Kantilal Sanghvi filed response to the notice issued u/s.148 of the Act, informing the Ld.AO about the demise of the assessee being Shantaben 30/12/2021. It is submitted that thereafter on 30/06/2021 notices u/s.148 was issued to the legal heir of the deceased assessee. In response to the said notice return was filed which was identical with the original return of income filed by the deceased assessee.

4.1 The Ld.AR submitted that, subsequently, notice u/s.142(1) of the Act was issued on 12/10/2021, placed at page 26 of the paper book. The Ld.AR submitted that, the said notice was again issued in the name of the deceased assessee even though the Ld.AO was informed about the demise of the assessee on 14/04/2021. Subsequently, on 26/10/2021 notice u/s.143(2) was issued in the name of the legal heir. The Ld.AR submitted that on 20/05/2021 proceedings u/s.148A(d) was initiated on

the legal heir of the assessee and the order u/s.148A(d) was passed on 29/07/2022 in the name of legal heir. On the same date notice u/s.148 was issued under new regime to the legal heir of the assessee and the assessment proceedings were initiated by issuing notice u/s.143(2) of the Act on 17/02/2023. It is submitted that, in the meanwhile on 16/01/2023 assessee received intimation wherein the proceedings initiated vide notice u/s.148 dated 30/06/2021 along with notice issued u/s.143(2) dated 26/10/2021 were closed. The said order is placed at page no.68-69 of the paper book.

4.2 The Ld.AR submitted that, the notice dated 31/03/2021 issued u/s 148 of the act is invalid and bad in law, as the same was issued in the name of Shantaben Kantilal Sanghvi, a deceased person. The Ld.AR in support relied on the decision of Co-ordinate Bench of this *Tribunal's* in case of *Devendra V. Addl./Jt. CIT reported in 461 ITR 463 (Bom)*, wherein, it is held that, notice issued in the name of a dead person is not valid.

4.3 The Ld.AR submitted that, the second 148 notice dated 30/06/2021 was issued in the name of Kiran Kantilal Sanghvi (son of Late Shantaben Sanghvi) under his PAN No. AERPS0349K and not as legal heir and therefore cannot be treated as show cause notice u/s 148A(b) of the act. However it is submitted that, subsequently, the proceeding was closed vide letter dated 16/01/2023.

4.4 The Ld.AR submitted that, thereafter fresh 148 notice dated 29/07/2022 was issued in the name of Kiran Kantilal Sanghvi (son of Late Shantaben Sanghvi) under his PAN No. AERPS0349K and not as legal heir is time barred. The Ld.AR relied on the

decision of co-ordinate Bench of this *Tribunal's* in the case of *ITO 10(3)(1), Mumbai V. Pushpak Realities Pvt. Ltd. (ITA No.4816/Mum/2024.)* wherein following the *Hon'ble Supreme Court's* decision rendered in the case of *Union of India and Others V. Rajeev Bansal 469 ITR 46 (SC)*, it was held that even under the TOLA, the time limit for issuance of notice u/s 148 expired on 30/06/2021 both for A.Y. 2013-14.

5. The Ld.AR submitted that as the second notice issued u/s.148 on the legal heir of the assessee dated 29/07/2022 is time barred and the extension available under TOLA will not be applicable to the present facts. The Ld.AR submitted that the said notice is beyond the period of limitation even if the extended period as per TOLA is applied to the present facts. In support the Ld.AR placed reliance on the decision of *Hon'ble Supreme Court in case of UOI vs. Rajiv Banal 469 ITR 46(sc)*

On the contrary, the Ld.DR relied on the orders passed by the authorities below.

We have perused the submissions advance by both sides in the light of record placed before us.

6. We find that new this issue has been settled by the latest judgment of the *Hon'ble Supreme Court* in the case of *Union of India vs. Rajeev Bansal reported in (2024) 167 taxmann.com 70* alongwith other civil appeal numbers. The *Hon'ble Supreme Court* referred to the submissions made on behalf of the Revenue vide para 19 which is quite relevant and same is reproduced hereunder:-

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

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

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

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

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

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

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

				<i>applicable</i>
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f. The Revenue concedes that for the assessment year 2015-16, all notices issued on or after 1 April 2021 will have to be dropped as they will not fall for completion during the period prescribed under TOLA;

g. Section 2 of TOLA defines "specified Act" to mean and include the Income Tax Act. The new regime, which came into effect on 1 April 2021, is now part of the Income Tax Act. Therefore, TOLA continues to apply to the Income Tax Act even after 1 April 2021; and

h. Ashish Agarwal (supra) treated Section 148 notices issued by the Revenue between 1 April 2021 and 30 June 2021 as show-cause notices in terms of Section 148A(b). Thereafter, the Revenue issued notices under Section 148 of the new regime between July and August 2022. Invalidation of the Section 148 notices issued under the new regime on the ground that they were issued beyond the time limit specified under the Income Tax Act read with TOLA will completely frustrate the judicial exercise undertaken by this Court in Ashish Agarwal (supra).

.....”

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

(i) for the assessment years 2013-2014 and 2014-2015, the six year period expires on 31 March 2020 and 31 March 2021 respectively; and

(ii) for the assessment years 2016-2017 and 2017-2018, the three year period expires on 31 March 2020 and 31 March 2021 respectively

.....”

“4. Before we proceed, we need to bear in mind three important Periods:

i. The period up to 30 June 2021 - this period is covered by the provisions of the Income Tax Act read with TOLA;

ii. The period from 1 July 2021 to 3 May 2022 - the period before the decision of this Court in Ashish Agarwal (supra); and

iii. The period after 4 May 2022 the period after the decision of this Court in Ashish Agarwal (supra). This period is covered by the directions issued by

PART F this Court in Ashish Agarwal (supra) and the provisions of the Income Tax Act read with TOLA.

a. Third proviso to Section 149

95. The third proviso to Section 149 reads thus:

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

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

....."

"114. In view of the above discussion, we conclude that:

a. After 1 April 2021, the Income Tax Act has to be read along with the substituted provisions;

b. TOLA will continue to apply to the Income Tax Act after 1 April 2021 if any action or proceeding specified under the substituted provisions of the Income Tax Act falls for completion between 20 March 2020 and 31 March 2021;

c. Section 3(1) of TOLA overrides Section 149 of the Income Tax Act only to the extent of relaxing the time limit for issuance of a reassessment notice under Section 148;

d. TOLA will extend the time limit for the grant of sanction by the authority specified under Section 151. The test to determine whether TOLA will apply to Section 151 of the new regime is this: if the time limit of three years from the end of an assessment year falls between 20 March 2020 and 31 March 2021, then the specified authority under Section 151(i) has extended time till 30 June 2021 to grant approval;

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

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

g. The time during which the show cause notices were deemed to be stayed is from the date of issuance of the deemed notice between 1 April 2021 and 30

June 2021 till the supply of relevant information and material by the assessing officers to the assesses in terms of the directions issued by this Court in Ashish Agarwal (supra), and the period of two weeks allowed to the assesses to respond to the show cause notices; and

h. The assessing officers were required to issue the reassessment notice under Section 148 of the new regime within the time limit surviving under the Income Tax Act read with TOLA. All notices issued beyond the surviving period are time barred and liable to be set aside;”

6.1 Thus, from the aforesaid judgment, it is clear that firstly, after 01/04/2021, the Income Tax Act has to be read alongwith substituted provisions of TOLA will continue to apply after 01/04/2021 if any action or proceedings provided under the substituted provision of the Income Tax falls for completion between 21/03/2020 to 31/03/2021 and Section 3(1), overrides Section 149 of the Income Tax Act; Similarly, TOLA will extend the time limit for grant of sanction by the authorities specified u/s.151 and if the time limit of three years falls between 21/03/2021 and 31/03/2021 then the specified authority of *Hon'ble Supreme Court* u/s.151(i) extended time limit till 30/06/2021. The direction in case of *UOI vs. Ashish Agarwal* reported in (2022) 138 taxmann.com 64 will extend to all re-assessment notice issued in old regime i.e. from 01/04/2021 to 30/06/2021 and finally Court held that Ld.AO was required to issue re-assessment notice u/s.148 under the new regime within the time limit surviving u/s.148 of the Income Tax Act r.w. TOLA. Thus, in all such instances for the relevant assessment years under question the time limit was extended only up to 30/06/2021 for issuance of notice u/s.148.

6.2 In the present case it is noted that for A.Y.2013-14 order u/s.148A(d) & notice u/s.148 was issued on 29/07/2022. And the original time limit of six years for A.Y.2013-14 was upto

31/03/2020 under TOLA. Thus, the time limit for issuance of notice u/s 148 of the new regime expired in the present case on 30/06/2021 for A.Y. 2013-14.

6.3 Hence, the notice issued u/s.148 on 29/07/2022 is barred by limitation under the new provisions of the section 149 of the Act and is not protected under TOLA. Accordingly, the notice dated 29/07/2022 deserves to be quashed as bad in law. As consequence, the entire assessment proceedings become bad in law.

Accordingly ground no. 1 and 2 raised by the assessee stands allowed.

7. As we have quashed the entire assessment, the addition made in the hands of the assessee becomes academic at this stage.

Accordingly the grounds raised by the assessee stands allowed.

In the result the appeal filed by the assessee stands allowed.

Order pronounced in the open court on 30/09/2025

Sd/-

(OMKARESHWAR CHIDARA)
Accountant Member

Sd/-

(BEENA PILLAI)
Judicial Member

Mumbai:

Dated: 30/09/2025

Poonam Mirashi,
Stenographer

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

(Asstt. Registrar)
ITAT, Mumbai