

**आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता**

**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA**

**Before Shri Pradip Kumar Choubey, Judicial Member  
and Shri Sanjay Awasthi, Accountant Member**

**ITA No.1272/Kol/2025  
Assessment Year: 2015-16**

**M. A Financial Services Pvt. Ltd.....Appellant  
2, Lal Bazaar Street, 1<sup>st</sup> Floor,  
Kol-700001..  
[PAN: AACCM0481E]**

**vs.**

**ITO, Ward-4(1), Kolkata.....Respondent**

**Appearances by:**

Shri Manoj Kataruka, AR, appeared on behalf of the appellant.

Shri Praveen Kishore, CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : October 09, 2025

Date of pronouncing the order : October 17, 2025

**ORDER**

**Per Pradip Kumar Choubey, Judicial Member:**

This appeal filed by the assessee is directed against the order dated 16.05.2025 of the National Faceless Appeal Centre [‘CIT(A)’] passed under Section 250 of the Income-tax Act, 1961 (hereinafter referred to as “the Act”) for the assessment year 2015–16.

2. Brief facts of the case of the assessee are that the assessee filed its return of income for the A.Y 2015-16 u/s 139 of the Act on 20.07.2015 declaring total income of Rs.9,647/-. The said return was processed u/s 143(1) of the Act. Later on, based on information received through ITBA software under the head High Risk Transaction Case notice u/s 148A(b) of the Act was issued and finally notice u/s 148 of the Act was issued on 13.07.2022. In response, the assessee filed return on 02.11.2021 declaring total income of Rs.9,647. Assessment was made under sec. 147

read with section 144B of the Act on 24.05.2023 determining total income of Rs.6,55,31,471/- inter-alia making following addition:

1. Addition on account of unexplained money of Rs.5,18,51,321/- u/s. 69A of the Act.

2. Disallowance of expenses claimed under the head of salary and wages of Rs.51,15,500/-.

3. Addition on account of unexplained money of Rs.85,55,000 u/s. 69A of the Act.

3. Aggrieved by the said order, the assessee preferred appeal before the ld. CIT(A) wherein the appeal of the assessee has been dismissed on account of non-compliance.

4. Being aggrieved and dissatisfied, the assessee is in appeal before us. The ld. AR by taking the additional ground challenges the impugned order thereby submitting that the order passed u/s 147 of the Act was in fact barred by limitation in view of the decision passed in view of the Apex Court Decision passed in *Union of India v. Rajeev Bansal* [2024] 167 taxmann.com 70 (SC).

5. Contrary to that, the ld. DR supports the impugned order and submitted that since there was no compliance before the ld. CIT(A), the matter be remitted back to the file of the ld. CIT(A).

6. Since, the assessee has raised legal ground in filing additional ground before us, we are bound to dispose of the appeal qua the legal ground. The assessee in this appeal challenges the reopening is bad in law as notice u/s 148 of the Act was barred by limitation since the notice u/s 148A(b) of the Act having been initiated after six years from the assessment year. The assessment year in question was not covered by

TOLA as admitted by the judgment of the Hon'ble Supreme Court in the case of Shri Rajeev Bansal (supra). The ld. AR also placed reliance of the decisions of the Coordinate Benches in the case of DCIT vs. Urvashi Sarees Pvt. Ltd. in ITA No.222&1946/Kol/2025 & M/s Kothari Metals Ltd. vs. DCIT in ITA No.2138/Kol/2024.

7. Upon hearing the submissions of the counsels of the respective parties, we have perused the records and find that the notice u/s 148 was issued on 21.04.2021 and order u/s 148A(d) along with notice u/s 148 was issued on 25.07.2022 for the assessment year 2015-16. We have gone through the decision of the Coordinate Bench of the Tribunal in the case of DCIT vs. Urvashi Sarees Pvt. Ltd. in ITA No.222&1946/Kol/2025 passed on 24.07.2025, the relevant portion of the order of the Tribunal is as follows:

*“3.2. At this juncture we need to consider the judgement of the Hon'ble Supreme Court in the case of **Rajeev Bansal** (supra), where it has been held as under:*

*“52. In Ashish Agarwal (supra), this Court held that the benefit of the new regime must be provided for the reassessment conducted for the past periods. The increase of the monetary threshold from Rupees one lakh to Rupees fifty lakh is beneficial for the assesseees. Mr Venkataraman has also conceded on behalf of the Revenue that all notices issued under the new regime by invoking the six year time limit prescribed under section 149(1)(b) of the old regime will have to be dropped if the income chargeable to tax which has escaped assessment is less than Rupees fifty lakhs.*

*....*

*64. When enacting a statute, the legislature often endeavours to ensure that the provisions of one legislation do not conflict with provisions of another legislation. Interplay (supra) [between Arbitration Agreements under the Arbitration and Conciliation Act 1996 and the Indian Stamp Act 1899, 2023 INSC 1066]. The purpose of the Income-tax Act is to levy tax on income and raise revenues for the functioning of the Government. On the other hand, the purpose of TOLA is to provide relaxation of the time for completion of any actions or proceedings falling for completion within a particular period. Thus, the two enactments operate in separate and distinct fields. This Court must ensure that the*

provisions of the two enactments are interpreted harmoniously unless there is an irreconcilable conflict between them.

.....

b. Reading TOLA into Section 149

**68. After 1 April 2021, the Income-tax Act has to be read along with**

**the substituted provisions.** The substituted provisions apply retrospectively for past assessment years as well. On 1 April 2021, TOLA was still in existence, and the Revenue could not have ignored the application of TOLA and its notifications. Therefore, for issuing a reassessment notice under section 148 after 1 April 2021, the Revenue would still have to look at: (i) the time limit specified under section 149 of the new regime; and (ii) the time limit for issuance of notice as extended by TOLA and its notifications. **The Revenue cannot extend the operation of the old law under TOLA, but it can certainly benefit from the extended time limit for completion of actions falling for completion between 20 March 2020 and 31 March 2021.**

69. For instance, Section 149(1)(a) of the new regime specified the time limit of three years from the end of the relevant assessment year for reopening of the assessment. **For assessment year 2017-2018, the three year period expired on 31 March 2021. The expiry of time fell within the time period contemplated by Section 3 of TOLA read with its notifications. Resultantly, the Revenue had time until 30 June 2021 to issue a reassessment notice for assessment year 2017-2018 under section 149(1)(a). This harmonious reading gives effect to the legislative intention of both the Income-tax Act and TOLA. Moreover, Sections 147 to 151 are machinery provisions. Therefore, they must be given an interpretation that is consistent with the object and purpose of the Income-tax Act.**

.....

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

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

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

four years but within six years after obtaining the approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

75. After 1 April 2021, the new regime has specified different authorities for granting sanctions under section 151. The new regime is beneficial to the assessee because it specifies a higher level of authority for the grant of

sanctions in comparison to the old regime. Therefore, in terms of Ashish Agarwal (*supra*), after 1 April 2021, the prior approval must be obtained from the appropriate authorities specified under section 151 of the new regime. The effect of Section 151 of the new regime is thus:

(i) If income escaping assessment is less than Rupees fifty lakhs: (a) a reassessment notice could be issued within three years after obtaining the prior approval of the Principal Commissioner, or Principal Director or Commissioner or Director; and (b) no notice could be issued after the expiry of three years; and

**(ii) If income escaping assessment is more than Rupees fifty lakhs: (a) a reassessment notice could be issued within three years after obtaining the prior approval of the Principal Commissioner, or Principal Director or Commissioner or Director; and (b) after three years after obtaining the prior approval of the Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General.**

**76. Grant of sanction by the appropriate authority is a precondition for the assessing officer to assume jurisdiction under section 148 to issue a reassessment notice. Section 151 of the new regime does not prescribe a time limit within which a specified authority has to grant sanction. Rather, it links up the time limits with the jurisdiction of the authority to grant sanction. Section 151(ii) of the new regime prescribes a higher level of authority if more than three years have elapsed from the end of the relevant assessment year. Thus, non-compliance by the assessing officer with the strict time limits prescribed under section 151 affects their jurisdiction to issue a notice under section 148.**

77. Parliament enacted TOLA to ensure that the interests of the Revenue are not defeated because the assessing officer could not comply with the pre conditions due to the difficulties that arose during the COVID-19 pandemic. **Section 3(1) of TOLA relaxes the time limit for compliance with actions that fall for completion from 20 March 2020 to 31 March 2021. TOLA**

will accordingly 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 an extended time till 30 June 2021 to grant approval. 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 time till 31 March 2021 to grant approval. The time limit for Section 151 of the old regime expires on 31 March 2021 because the new regime comes into effect on 1 April 2021.

**78. For example, the three year time limit for assessment year 2017-2018 falls for completion on 31 March 2021. It falls during the time period of 20 March 2020 and 31 March 2021, contemplated under section 3(1) of TOLA. Resultantly, the authority specified under section 151(i) of the new regime can grant sanction till 30 June 2021.**

79. Under Finance Act 2021, the assessing officer was required to obtain prior approval or sanction of the specified authorities at four stages:

a. Section 148A(a) - to conduct any enquiry, if required, with respect to the information which suggests that the income chargeable to tax has escaped assessment;

b. Section 148A(b) - to provide an opportunity of hearing to the assessee by serving upon them a show cause notice as to why a notice under section 148 should not be issued based on the information that suggests that income chargeable to tax has escaped assessment. It must be noted that this requirement has been deleted by the Finance Act 2022;33

c. Section 148A(d) - to pass an order deciding whether or not it is a fit case for issuing a notice under section 148; and

d. Section 148 - to issue a reassessment notice.

80. In Ashish Agarwal (supra), this Court directed that Section 148 notices which were challenged before various High Courts "shall be deemed to have been issued under section 148-A of the Income-tax Act as substituted by the Finance Act, 2021 and construed or treated to be show-cause notices in terms of Section 148-A(b)." Further, this Court dispensed with the requirement of conducting any enquiry with the prior approval of the specified authority under section 148A(a). Under Section 148A(b), an assessing officer was required to obtain prior approval from the specified authority before issuing a show cause notice. **When**

**this Court deemed the Section 148 notices under the old regime as Section 148A(b) notices under the new regime, it impliedly waived the requirement of obtaining prior approval from the specified authorities under section 151 for Section 148A(b).** It is well established that this Court while exercising its jurisdiction under Article 142, is not bound by the procedural requirements of law *High Court Bar Association v. State of U P* [2024] 160 taxmann.com 32/299 Taxman 21 (SC)/[2024] 6 SCC 267.

81. This Court in *Ashish Agarwal (supra)* directed the assessing officers to "pass orders in terms of Section 148-A(d) in respect of each of the assesses concerned." Further, it directed the assessing officers to issue a notice under Section 148 of the new regime "after following the procedure as required under section 148-A." Although this Court waived off the requirement of obtaining prior approval under section 148A(a) and Section 148A(b), it did not waive the requirement for Section 148A(d) and Section 148. Therefore, the assessing officer was required to obtain prior approval of the specified authority according to Section 151 of the new regime before passing an order under section 148A(d) or issuing a notice under section 148. These notices ought to have been issued following the time limits specified under section 151 of the new regime read with TOLA, where applicable.

F. Section 148 notices issued in June-September 2022

i. Scope of Article 142

113. In *Ashish Agarwal (supra)*, this Court allowed the assesses to avail all the defences, including the defence of expiry of the time limit specified under section 149(1). In the instant appeals, the reassessment notices pertain to the assessment years 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018. To assume jurisdiction to issue notices under section 148 with respect to the relevant assessment years, an assessing officer has to: (i) issue the notices within the period prescribed under section 149(1) of the new regime read with TOLA; and (ii) obtain the previous approval of the authority specified under section 151. A notice issued without complying with the preconditions is invalid as it affects the jurisdiction of the assessing officer. **Therefore, the reassessment notices issued under section 148 of the new regime, which are in pursuance of the deemed notices, ought to be issued within the time limit surviving under the Income-tax Act read with TOLA. A reassessment notice issued beyond the surviving time limit will be time-barred.**

G. Conclusions

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;”

3.3. Admittedly the notice u/s 148 of the Act was issued on 31.07.2022 i.e. beyond the TOLA period and as per the decision of the Hon'ble Supreme Court such a notice under the old regime could have been issued only up to 31.03.2022 and the benefit of extension of due date as per TOLA would be applicable only to the notices issued between 01.04.2021 to 30.06.2021 if the limitation for issuing such notices was expiring

between 20th March 2020 and 31st March 2021. The limitation for A.Y. 2015-16 was expiring on 31.03.2022, i.e. beyond the period of 20.03.2020 to 31.03.2022, therefore, the benefit of TOLA would not be applicable. Further, in view of the first proviso to section 149(1) of the Act, the time limit for reopening assessments has been reduced from four years to three years. However, in cases where income escaping assessment amounts to ₹50 lakhs or more, assessments can be reopened within ten years. The new regime prohibits reopening of assessments that were time-barred under the old regime. The provisions of section 149 of the new regime are as under:

149. (1) No notice under section 148 shall be issued for the relevant assessment year,—

(a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);

b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of—

(i) an asset;

(ii) expenditure in respect of a transaction or in relation to an event or occasion; or

(iii) an entry or entries in the books of account,

which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more:]

**Provided that no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if a notice under section 148 or section 153A or section 153C could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of this section or section 153A or section 153C, as the case may be, as they stood immediately before the commencement of the Finance Act, 2021:**

{emphasis supplied}

3.4. In this case the notice u/s 148 of the Act was earlier issued on 26.06.2021 and the order u/s 148A(d) of the Act has been passed on 31.07.2022 and as per the old provisions of reassessment, the notice u/s 148 of the Act after complying with the procedural requirement as per the amended provisions, ought to have been issued by 31.03.2022 after excluding the period granted to file the reply in response to the notice u/s 148A(b) of the Act. Since the limitation for issue of notice u/s 148 of the Act expired on 31.03.2022 under the old regime, the benefit of TOLA for

*extending the limitation for issue of notice u/s 148 of the Act will not be available to the Revenue. Hence, in view of the decisions relied upon by the Ld. AR (supra), the notice issued u/s 148 of the Act on 31.07.2022 is barred by limitation and the assessment order is hereby quashed and appeal of the assessee is allowed. Other issues are not adjudicated as the assessment order has been quashed.*

4. *Since the very assumption of jurisdiction by the Ld. AO has been held to be illegal, hence the appeal of Revenue is also dismissed.*

5. *In the result, the appeal filed by the assessee is allowed and the appeal of Revenue is dismissed.”*

7.1 Admittedly, in the present case, notice u/s 148 was issued on 25.07.2022 for the assessment year 2015-16 which is beyond the TOLA period and as per the decision of Apex Court, notice under the old regime only be issued upto 31.03.2022. Since the limitation for issuing of notice u/s 148 expired on 31.03.2022 under old regime, the benefit of extension was not applicable to the revenue in view of the decision of the Apex Court in the case of Shri Rajeev Bansal (supra). We, therefore, hold that the notice u/s 148 of the Act dated 25.07.2022 is barred by limitation and as a result, the consequential order passed was also quashed. The appeal of the assessee is allowed on the legal ground.

8. In the result, the appeal of the assessee is allowed.

***Kolkata, the 17<sup>th</sup> October, 2025.***

Sd/-  
**[Sanjay Awasthi]**  
**Accountant Member**

Sd/-  
**[Pradip Kumar Choubey]**  
**Judicial Member**

Dated: 17.10.2025.

RS

*Copy of the order forwarded to:*

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

//True copy//

By order

Assistant Registrar, Kolkata Benches