

आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA

**Before Shri Rajesh Kumar, Accountant Member and
Shri Pradip Kumar Choubey, Judicial Member**

**ITA Nos.2197 & 2198/Kol/2024
Assessment Years: 2013-14 & 2014-15**

ITO, Ward-10(2), Kolkata.....Appellant

vs.

**Alex Tradecom Pvt. Ltd.....Respondent
4, Ratan Sarkar Garden Street,
Burrabazar, Kol- 700069.
[PAN: AAJCA6146P]**

Appearances by:

Smt. Madhumita Das, Addl. CIT, Sr. DR, appeared on behalf of the appellant.

Shri Akshay Ringasia, CA, appeared on behalf of the Respondent.

Date of concluding the hearing : October 15, 2025

Date of pronouncing the order : October 27, 2025

ORDER

Per Pradip Kumar Choubey, Judicial Member:

Both the captioned appeals have been preferred by the revenue for the assessment years 2013-14 & 2014-15 against separate orders dated 05.08.2024 & 26.07.2024 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act') respectively. Since, the issues involved in both the appeals are common and relate to the same assessee, therefore, these appeals have been heard together and are being disposed of by this consolidated order.

2. Both the appeals have been filed by the revenue with delays of 38 days. The revenue has filed separate affidavits for condonation of the delays. After considering the reasons cited in the affidavits for condonation of delay, we find that the reasons are valid and

consequently, the delays in filing both the appeals are hereby condoned and we proceed to dispose of the appeals on merits.

3. ITA No.2197/Kol/2024 for Assessment Year 2013-14 – For the sake of convenience and narrations of facts, this appeal is taken as lead case.

4. At the time of argument, the ld. counsel appeared on behalf of the assessee raised a legal ground by filing an application under Rule 27 of the ITAT Rules 1963 by submitting that notice u/s 148 was time barred as was issued beyond the surviving period as defined by the Apex Court Decision passed in *Union of India v. Rajeev Bansal* [2024] 167 taxmann.com 70 (SC). The ld. AR prayed that his application under Rule 27 should be disposed of as the issue goes to the root of the case of the department. The ld. DR did not raise any objection in hearing this issue on legal ground filed under Rule 27 of the ITAT Rules. The ld. AR placed reliance to an order passed by the Coordinate Bench of this Tribunal in ITA No.261/Kol/2025 in the case of Sanjay Kumar Bhutra vs. ITO dated 18.09.2025.

4.1 In the present case, the case was reopened for the assessment year 2013-14 by the jurisdictional Assessing Officer by issuing **original notice on 28.06.21** as per old regime and after that in view of the decision of the Hon'ble Supreme Court in *Union of India v. Ashish Agarwal* [2022] 138 taxmann.com 64/286 Taxman 183/444 ITR 1 (SC) wherein it has been held that notices issued u/s 148 of the Act considered the period from 01-04-2021 to 30-06-2021 under old regime are deemed to be show-cause notice issued u/s 148A(b) under the new regime and directed the Assessing Officer to allow the opportunity in respect of such notice. Accordingly, the Assessing Officer provided the information as per instruction of the Hon'ble Supreme Court **on**

26.05.2022 to the assessee and response date given to the said notice by 09.06.22. It is seen from the record that the assessee did not reply and the last date of issuing of notice u/s 148A(d) was 17.06.2022 and last extended date of issuing of the said notice under 4th proviso to section 148A of the Act was 22.06.2022 but the notice u/s 148 was issued **on 27.07.2022**. The ld. AR challenges the issuance of the notice i.e on 27.07.2022 being invalid keeping in view the decision of *Union of India v. Rajeev Bansal* stated supra.

5. Contrary to that, the ld. DR supports the impugned order thereby submitting that the ld. AR failed to file any written submission before the ld. CIT(A), hence the appeal of the assessee has been dismissed by the ld. CIT(A).

6. We have gone through the cited decision of the ld. AR in the case of Sanjay Kumar Bhutra vs. ITO in ITA No.261/Kol/2025 wherein the Coordinate Bench of this Tribunal has held as under:

“5. We have gone through the cited decision of the ld. AR and find that in the aforesaid case i.e in the ITO vs Pushpak Realities Pvt Ltd of ITAT, Mumbai, the Hon’ble Members have decided the issue keeping the view the judgment passed by the Union of India v. Rajeev Bansal stated supra, the relevant portion of the order of the Tribunal is reproduced hereinbelow:

“8. We find that now 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](#) in Civil Appeal No.8629 of 2024 alongwith other civil appeal numbers. The Hon’ble Supreme Court had 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	Limitation (1)	Limitation (2)	read with TOLA for (2)	TOLA for (4)	(3)	(5)
2013-2014	31.03.201	TOLA not	31.03.2020	30.06.2021	7	applicable
2014-2015	31.03.201	TOLA not	31.03.2021	30.06.2021	8	applicable
2015-2016	31.03.2019	TOLA not	31.03.2022	TOLA not	applicable	applicable
2016-2017	31.03.2020	30.06.2021	31.03.2023	TOLA not	applicable	2017-2018
2017-2018	31.03.2021	30.06.2021	31.03.2024	TOLA not	applicable	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).

9. Thus it can be seen that, one very important fact which has been stated by the Revenue before the Hon'ble Supreme Court in para 19 (f) wherein the Revenue concedes that for the A.Y.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. Further, for the A.Y.2013-14 and 2014- 15 Revenue has accepted that the expiry of the limitation (TOLA) will expire on 30/06/2021.

10. In para 54 the Hon'ble Supreme Court has explained the extension of TOLA time limit till 31/06/2021 in the following manner:-

"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.

a. [Finance Act](#) 2021 substituted the old regime."

11. Thereafter, the Hon'ble Supreme Court has elaborated the law brought by the [Finance Act, 2021](#) substituting [u/s. 147](#) to [151](#) and the TOLA providing for relaxation of time limit prescribed under the specified Acts. Further, their Lordships have also observed that [Section 3\(1\)](#) of TOLA starts with non- obstante clause which has to be read as controlling the provisions of the specified Acts including the provision of [Income Tax Act](#) which also overrides [Section 149](#) only to the extent of relaxing the time limit of issuing of re-assessment notice [u/s.148](#). The Hon'ble Court held that time limit for issuance of re-assessment notices which falls for

completion between 20th March 2020 and 31/03/2021 has been extended till 30/06/2021. However, non-obstante clause [u/s.3\(1\)](#) of TOLA will neither the extent of time limit of three years from the end of the relevant assessment year [u/s.149\(1\)\(a\)](#) neither the new regime extend the time limit of six years from the end of the relevant assessment years [u/s.149\(1\)\(b\)](#) of the old regime. From para 73 to 76, the Lordships have elaborated the sanction of specified authority [u/s.151](#) vis-à-vis the time limit prescribed in Section

151. For the sake of ready reference para 73-76 reads as under:-

"73. [Section 151](#) imposes a check upon the power of the Revenue to reopen assessments. The provision imposes a responsibility on the Revenue to ensure that it obtains the sanction of the specified authority before issuing a notice under [Section 148](#). The purpose behind this procedural check is to save the assesses from harassment resulting from the mechanical reopening of assessments. 128 A table representing the prescription under the old and new regime is set out below:

Regime	Time Limits	Specified Authority
Section 151(2) of the old regime	Before expiry of four years from the end of the relevant assessment year	Joint Commissioner
Section 151(1) of the old regime	After expiry of four years from the end of the relevant assessment year	Principal Chief Commissioner or Commissioner or Principal Commissioner
Section 151(i) of the new regime	Three years or less than three years from the end of the relevant assessment year	Principal Commissioner or Principal Director or Commissioner or Director
Section 151(ii) of the new regime	More than three years have elapsed from the	Principal Commissioner or

end of the relevant assessment year	Principal General Commissioner Director General	Director or Chief or
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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](#).

12. Thus, the Hon'ble Supreme Court clearly held that after 01/04/2021 the new regime has specified different authorities for granting sanction [u/s.151](#) and since it is a beneficial to the assessee because it specifies the higher level of authority for the grant of sanctions in comparison to the old regime, therefore, in terms of Shri Ashish Agarwal judgment, after 01/04/2021 the prior approval must be obtained from the competent authorities specified [u/s.151](#) of the new regime and then their Lordships have clearly held in para 76 that the non-compliance by the AO to the restricted time limit prescribed [u/s.151](#) affects the jurisdiction to issue a notice [u/s.148](#).

13. In para 94 the Hon'ble Supreme Court has mentioned about the three important periods to see the limitation which are as under:-

"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."

14. Finally, after analyzing the judgment of Shri Ashish Agarwal in various time limits provided in the Act and the time extended by TOLA, the Hon'ble Supreme Court concluded as under:-

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;

15. 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 [u/s.151\(i\)](#) has extended time limit till 30/06/2021. The direction of Shri Ashish Agarwal will extent 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](#).

16. Now here in this case as noted above for A.Y.2013-14 after 148A (b), notice [u/s.148](#) was issued on 29/07/2022; for A.Y. 2014-15 it was issued on 31/07/2022; and for A.Y.2015-16 it was issued 28/07/2022. Thus, in all these years as noted above the original time limit for six years for A.Y.2013-14 was upto 31/03/2020; for 2014-15 it was 31/03/2021; and for A.Y. 2015-16 it was 31/03/2022. Even under the TOLA, the time limit for issuance of notice [u/s 148](#) had expired on 30/06/2021 both for A.Y. 2013-14 & A.Y. 2014-15. For the A.Y.2015-16, the Revenue itself has contended before the Hon'ble Supreme Court as noted above, all the notices issued on or after 01/04/2021 will have to be dropped as they will not fall for completion during the period prescribed under TOLA. Here notice [u/s. 148](#) for the A.Y. 2015-16 has been issued on 28/07/2022 which is admittedly barred by limitation under the new provision of [Section 149\(1\)](#) and it is not covered under TOLA. Accordingly, all the notices are quashed being barred by limitation on the reasons given above and we are not going on the reasons given by the ld. CIT (A) for quashing the notice.

17. *Since the issue involved was squarely covered by the judgment of the Hon'ble Supreme Court in the case of Shri Rajeev Bansal therefore, the same has been decided on the principle laid down by the Hon'ble Supreme Court.*

18. *In the result, all the appeals of the Revenue are dismissed.*

6. *The case in hands reveals that notice u/s 148 for AY 2013-2014 was issued on 19-07-2022, as per Rajeev Bansal case there was no surviving period, A.O. ought to get 7 days' time to issue 148 notice i.e upto 22-06-22. Keeping in view the above judgment and considering the present facts of the case being similar, we find substance in the argument of the ld. counsel of the assessee that the issuance of the notice u/s 148 is bad in law. Therefore, the appeal of the assessee is allowed on legal ground and notices issued u/s 148 on 19.07.2022 are hereby quashed.*

7. *In the result, the appeal of the assessee is allowed.”*

6.1 We find that in the case in hand; it is evident that notice u/s 148 for A.Y 2013-2014 was issued on 27-07-2022 and as per Rajeev Bansal case there was no surviving period. The Assessing Officer ought to issue 148 notices up to 22-06-22 which is the extended period 7 days under the 4th proviso to section 148A. Keeping in view the above judicial pronouncement and considering the present facts of the case, we find substance in the argument of the ld. counsel of the assessee that the issuance of the notice u/s 148 is bad in law. Therefore, the assessee being respondent here in has succeeded in this issue alone. We are hereby held that notice issued u/s 148 on 27.07.2022 are beyond the limitation period and accordingly quashed. Since assessee succeeded in the legal issue it is needless to decide the appeal filed by the revenue on merit. Hence, ITA No.2198/Kol/2024 filed by the revenue is dismissed.

7. ITA No.2198/Kol/2024 - Since the facts and issues involved in both the appeals are identical, therefore, our findings/directions given above in ITA No.2197/Kol/2024 will mutatis mutandis apply to ITA No.2198/Kol/2024. Hence, ITA No.2198/Kol/2025 is also dismissed.

8. In the result, both the appeals filed by the revenue are dismissed.

Kolkata, the 27th October, 2025.

Sd/-
[Rajesh Kumar]
Accountant Member

Sd/-
[Pradip Kumar Choubey]
Judicial Member

Dated: 27.10.2025.

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