

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B" NEW DELHI**

**BEFORE SHRIMAHAVIR SINGH, HON'BLE VICE PRESIDENT
AND
SHRISANJAY AWASTHI, ACCOUNTANT MEMBER**

आ.अ.सं./I.T.A No.4863/Del/2024

निर्धारणवर्ष/Assessment Year: 2014-15

DCIT, Circle 43(1), 1704, 17 th Floor, E 2 Block, Civic Centre, New Delhi.	Vs.	CHARU GOEL, 6/22, East Punjabi Bagh, New Delhi. PAN No.AALPG3062F
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

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CO No.16/Del/2025

(Arising out of ITA No.4863/Del/2024)

निर्धारणवर्ष/Assessment Year: 2014-15

CHARU GOEL, 6/22, East Punjabi Bagh, New Delhi. PAN No.AALPG3062F	बनाम Vs.	DCIT, Circle 43(1), 1704, 17 th Floor, E 2 Block, Civic Centre, New Delhi.
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

Assessee by	None
Revenue by	Shri Rajesh Kumar Dhanesta, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	08.12.2025
उद्घोषणाकीतारीख/Pronouncement on	08.12.2025

आदेश /O R D E R

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

This appeal arises from the order passed u/s 250 of the Income Tax Act, 1961 (hereinafter "the Act"), vide order dated 28.06.2024. The impugned order is passed by Ld. CIT(A)-NFAC, Delhi. In this case

the Ld. AO vide order dated 15.05.2023 passed an order u/s 147 r.w.s. 144B of the Act through which two amounts have been added as under:

- a) Rs.69,39,894/- u/s 68 of the Act;
- b) Rs.69,398/- u/s 69C of the Act.

1.1 Aggrieved with this order the assessee carried this matter before the Ld. CIT(A) where he could succeed on the basis of the following findings:

“5. Observation and Decision:

In ground Nos. 1 and 2, the Appellant has contested the order u/s 147 r.w.s 144B of the IT Act, 1961 dated 27/03/2022 for the A.Y 2014-15 of the AO of making an addition of Rs.69,39,894/- u/s 68 and Rs. 69,398/- u/s 69C by holding that the notice issued u/s 148 is barred by limitation and is therefore illegal and bad in law. Both these grounds are taken up together for the sake of convenience.

I have carefully considered the submissions made by the Appellant. It is observed that the Appellant had filed original Return of Income on 30/07/2014 declaring total income of Rs.13,92,220/-. Initial notice u/s 148 was issued on 24/05/2022. Subsequently notice u/s 148 was issued on 22/07/2022 and assessment u/s 147 r.w.s 144B was completed on 15-05-2023 making an addition of Rs.69,39,894/- u/s 68 and Rs.69,398/- u/s 69C. The Hon'ble High Court of Gujrat has in the case of Sumit Jagdishchandra Agarwal vs. the DCIT, Central Circle-1, Vadodara in SCA No. 4860, 4861, 4862, 4863, 4865, 4886 and 4677 of 2023 dated 20.03.2023 in agreement with the decision of the Hon'ble High Court of Gujrat in the case of Kennara Industries Pvt. Ltd vs ITO and the Hon'ble High Court of Allahabad in the case of Rajeev Bansal vs. Union of India held that all original notices u/s 148 of the Act referable to the old regime and issued between 01-04-2021 to 30-6-2022 Would stand' beyond" the prescribed permissible timeline of six years from the end of Assessment Year 2013-14 and Assessment year 2014-15. Therefore, all such notices when they would relate to A.Y. 2013-14 or A.Y. 2014-15 would be barred as per the provisions of the Act as

applicable in the old regime prior to 01-04-2021. Furthermore, these notices cannot be issued as per the amended Provisions of the Act. In view of the decisions of the Hon'ble High Courts of Gujrat and Allahabad, the notice u/s 148 issued on 24/05/2022 and 27/07/2022 is illegal and the subsequent assessment made is bad in law and hereby quashed. These grounds are allowed.

Since the appeal has been adjudicated on the legal issue and allowed, all other issues on the merits of the additions, in the impugned proceedings are rendered academic and infructuous.

In the result, the appeal is allowed.”

1.2 Aggrieved with this order the Revenue has approached the ITAT with the following ground:

“1) the judgment of Hon'ble High courts relied upon by Ld. CIT(A) has been set aside by Hon'ble Supreme Court in the case of Rajiv Bansal vs. Union of India & Ors., Civil Appeal No.8629 of 2024, order dated 03.10.2024.”

1.3 The assessee has also filed a Cross Objection (CO No.16/Del/2025) in support of the order of the Ld. CIT(A).

2. Before us the Ld. DR argued on the merits of the case and stated that the assessee dealt in penny stocks, the transaction in which was certainly questionable and therefore the addition made by the Ld. AO was justified. On a query from the Bench regarding the ground on which relief has been afforded by the Ld. CT(A) as per para 5 of the impugned order (supra), on this issue the Ld. DR relied on the orders of the authorities below.

2.1 The Ld. AR supported the findings given in the impugned order and stated that while the Ld.CIT(A) had relied on the Rajeev Bansal case of the Allahabad High Court, the issue was now settled through the judgment in the case of Union of India Vs. Rajeev Bansal [2024] (469 ITR 46) (SC) [03.10.2024].

3. We have carefully considered the rival submissions and have gone through the documents before us. It deserves to be observed that the Rajeev Bansal judgment by the Hon'ble Allahabad High Court travelled up to the Hon'ble Supreme Court (supra) and thereafter it is now well settled that a notice u/s 148 being issued on 22.07.2022, as in this case, was clearly barred by limitation. To this extent, certain relevant extracts from the Rajeev Bansal case (supra) deserve to be mentioned 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.

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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 an assessment 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.

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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.

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;”

3.1 Admittedly, the notice u/s 148 of the Act was issued on 22.07.2022 i.e. beyond the TOLA period and as per the decision of the Hon’ble Supreme Court such a notice would be clearly time barred. Accordingly, it deserves to be held that the assessment order passed by the Ld. AO cannot be sustained in the eyes of law and hence it is treated as *void*.

4. Since the assessment order itself has been struck down, we do not deem it fit to comment on the merit of the case. Furthermore, since the appeal of the Revenue has been dismissed, we do not deem it fit to adjudicate on the Cross Objection filed by the Assessee, which is also dismissed.

5. In the result, the appeal filed by the Revenue and the Cross Objection filed by the Assessee are dismissed.

Order pronounced in the open court on 08.12.2025

Sd/-
(MAHAVIR SINGH)
VICE PRESIDENT

Sd/-
(SANJAY AWASTHI)
ACCOUNTANT MEMBER

Dated: 08.12.2025

**Kavita Arora, Sr. P.S.*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI