

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक
IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK
(THROUGH VIRTUAL HEARING)

श्री जार्ज माथन, न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष ।

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND

SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.417/CTK/2025

(निर्धारण वर्ष / Assessment Year : 2016-2017)

Sankar Patro, Sankarpur Street, Panigrahinentho Aska Road, Brahmapur, Dist : Ganjam-760006	Vs	ITO, Ward-1, Berhampur
PAN No. : ABMPP 6344 H		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri S.K.Sarangi, AR
राजस्व की ओर से / Revenue by	:	Shri Vijay Singh, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	01/12/2025
घोषणा की तारीख / Date of Pronouncement	:	01/12/2025

आदेश / O R D E R

Per Bench :

This is an appeal filed by the assessee against the order passed by the Id. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, dated 11.07.2025 for the assessment year 2016-2017.

2. It was submitted by the Id. AR that the assessment framed by the AO is not sustainable as the notice issued by the AO u/s.148 of the Act dated 23.08.2022 was barred by limitation in view of the decision of the Hon'ble Supreme Court in the case of Union of India and other Vs. Rajeev Bansal [2024] 469 ITR 46 (SC). In this regard, Id. AR submitted his written submission as under :-

Written Note of Submission

1. In the grounds of appeal No.2 &3 assessee has challenged the validity of reassessment notice issued on 23.08.2022 which is barred by limitation, illegal in view of judgment of Hon'ble Supreme Court in

the case of *Union of India Vs. Rajeev Bansal* [2024] 167 taxmann.com 70 (SC) as the said notice was issued beyond "surviving period" and liable to be quashed.

2. Calculation of limitation period as per Hon'ble Supreme Court Judgment in the case of *Rajeev Bansal* (para 112 of the order).

Particulars	As per example given in SC order	Facts of the Assessee	Remarks
Notice u/s.148 under old regime issued	01.05.2021	26.04.2021	Notice attached Page-3
No of days available with AO to issue notice under new regime after receiving objection from Assessee (from date of 148 notice till 30.06.2021)	61	66	--
Notice u/s.148 A(b) issued	--	25.05.2022	Notice attached Page-4 to 6
Submission of objection by Assessee in response to notice u/s. 148A(b)	18.06.2022	07.06.2022	Date of expiry of two weeks time to file objection.
Time available with AO to issue notice u/s. 148 under new regime	18.08.2022	11.08.2022	---
Actual date of issue of notice u/s. 148 under new regime	--	23.08.2022	Notice attached Page-7 to 12
Whether time barred?	--	Notice time barred	Notice u/s.148 is time barred by 12 days

3. The notice u/s. 148 the IT Act dated 23.08.2022 is time barred and liable to be quashed as this said notice is issued beyond surviving period as specified in para 114(g) and 114(h) in the judgment of the Hon'ble Apex Court in the case of *Rajeev Bansal*.

4. The assessee in support of his above contention rely on the following judgments":

i) *Union of India Vs. Rajeev Bansal* [2024] 167 taxmann.com 70 (SC) (Para 108 to 114 of the judgment)

ii) Order of ITAT Mumbai, in *DCIT Vs. Larsen & Toubro Ltd* [2025] 173 taxmann.com 582 (para 10 to 10.2).

iii) Order of ITAT Pune, in DCIT Vs. Kolte Patil Integrated Townships Ltd. ITA Nos. 2023 and 2011/PUN/2024 Dt.10.03.2025 (para 44 and 45).

Copy of the above case laws are enclosed.

PRAYER

The assessee humbly pray that the reassessment notice u/s.148 of the IT Act dated 23.08.2022 is barred by limitation, illegal and liable to quashed. Consequential assessment order is also liable to be quashed in view of judgment of Hon'ble Supreme Court in the case of Rajeev Bansal.

3. Ld. AR also drew our attention to the decision of the coordinate bench of the Tribunal in the case of Kolte Patil Integrated Townships Limited, passed in ITA Nos.2023 and 2011/PUN/2024, order dated 10.03.2025 and submitted that the coordinate bench of the Tribunal in para 45 has held that in view of the decision of the Hon'ble Supreme Court in the case of Rajeev Bansal the notice issued u/s.148 of the Act for A.Y.2016-2017 by 26.06.2022 is barred by limitation. The relevant observations of the Tribunal in para 45 reads as under :-

Therefore, in view of the decision of the Hon'ble Supreme Court in the case of Ashish Agarwal (supra), it is clear that the time between the issue of original notice u/s 148 under the old regime and the time upto 30.06.2021 is the time limit available which needs to be added to the date on which the reply of the assessee was received. The Hon'ble Supreme Court has referred to this time limit as the surviving time limit available. Applying the same principle as laid down by Hon'ble Supreme Court in the case of Rajeev Bansal, for A.Y. 2014-15, the Assessing Officer should have issued notice u/s 148 by 13.06.2022 and for A.Y. 2016-17 by 26.06.2022. However, for both the assessment years, the Assessing Officer has issued notice u/s 148 subsequent to those dates i.e. 25.07.2022 and 26.07.2022 respectively. Therefore, the notices issued u/s 148 in the new regime are barred by limitation for both years. We, therefore, hold that the notice issued u/s 148 of the Act being barred by limitation, such reassessment proceedings are not in accordance with law and have to be quashed.

4. It was the submission the assessment under consideration is A.Y.2016-2017, therefore, the principle laid down by the Hon'ble Supreme Court in the case of Rajeev Bansal, referred to supra and the decision of the coordinate bench of the Tribunal, referred to supra, the notice issued u/s.148 of the Act dated 23.08.2022 is barred by limitation and liable to be quashed. It was also the submission that consequential assessment based in invalid notice u/s.148 of the Act is also liable to be quashed.

5. In reply, Id. Sr. DR vehemently supported the orders of the AO and Id. CIT(A).

6. We have considered the rival submissions. A perusal of the assessment order shows that the AO has issued notice u/s.148 of the Act on 23.08.2022, however, the time available with the AO to issue notice u/s.148 of the Act under the new regime in compliance to the decision of Hon'ble Supreme Court in the case of Rajeev Bansal was 11.08.2022. Thus, it is clear that the notice issued u/s.148 of the Act by the AO on 23.08.2022 under new regime is barred by 12 days. This issue is squarely covered by the decision of the Hon'ble Supreme Court in the case of Rajeev Bansal [2024] 469 ITR 46 (SC), wherein the Hon'ble Supreme Court has held as under :-

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;*

7. Respectfully following the decision of the Hon'ble Supreme Court in the case of Rajeev Bansal, referred to supra, it is held that the notice u/s.148 of the Act dated 23.08.2022 and in consequence thereof the assessment order dated 01.05.2023 framed by the AO is hereby quashed.

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

Order dictated and pronounced in the open court on 01/12/2025.

Sd/-

(राजेश कुमार)
(RAJESH KUMAR)

लेखा सदस्य/ **ACCOUNTANT MEMBER**

Sd/-

(जार्ज माथन)
(GEORGE MATHAN)

न्यायिक सदस्य / **JUDICIAL MEMBER**

दिनांक Dated 01/12/2025

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant -
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack