

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E': NEW DELHI**

**BEFORE SHRIS.RIFAUR RAHMAN, ACCOUNTANT MEMBER
and
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No.3495/DEL/2025
(Assessment Years : 2013-14)**

Income Tax Officer,
Ward 2 (2)(1), Ghaziabad.

vs.

Vikas Sharma,
15/103, Vashundhara,
Ghaziabad – 201 012.
(PAN : AVJPS8784R)

**Date of Hearing : 06.10.2025
Date of Order : 30.12.2025**

**ITA No.3525/DEL/2025
(Assessment Years : 2014-15)**

Income Tax Officer,
Ward 2 (2)(1), Ghaziabad.

vs.

Vikas Sharma,
15/103, Vashundhara,
Ghaziabad – 201 012.
(PAN : AVJPS8784R)

**Date of Hearing : 09.10.2025
Date of Order : 30.12.2025**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Salil Kapoor, Advocate
Shri Sumit Lalchandani, Advocate
Ms. Sakshi Rustogi, Advocate
Shri Shivam Yadav, Advocate
REVENUE BY : Ms. Amisha S. Gupt, CIT DR

ORDER

PER S.RIFAUR RAHMAN, ACCOUNTANT MEMBER :

1. The Revenue has filed appeals against the order of Id. Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi ["Id. CIT(A)", for short] dated 05.03.2025 for AYs 2013-14 & 2014-15.
2. Since the issues are common and the appeals are connected, hence the same are heard on 06.10.2025 and 09.10.2025 and being disposed off by this common order. We take up the Revenue's appeal being ITA No.3459/Del/2025 for Assessment Year 2013-14 as lead case to adjudicate the issues under consideration wherein Revenue has raised the following grounds of appeal:-

"1. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in interpreting the order of Hon'ble Supreme Court passed in the case of Ashish Agarwal and Rajeev Bansal by holding that the impugned notice u/s 148 of the Act dated 29.06.2022 was barred by limitation in view of the Hon'ble Supreme Court decision in the case of Union of India Vs. Rajeev Bansal (Supra) and the latest decision of Hon'ble High Court, Allahabad in writ no. 1616 of 2022 dated 28.04.2025 wherein the Hon'ble High Court hold that another opportunity to raise the objection against the against the show cause notice issued u/s 148A(b) of the I.T. Act, 1961 which indicates that the filing and disposal of objections was an integral part for issue of order u/s 148A(d) of the IT Act, 1961.

2. On the facts and circumstances of the case and in law, the Ld. CIT(A) has not considered a crucial fact that in this case the assessee did not file any response to the notice and as such notice issued u/s 148 on 29.06.2022 was not barred by limitation in view of the Hon'ble Supreme Court decision in the case of Union of India Vs. Rajeev Bansal (Supra). The Ld. CIT(A) himself has noted this fact at para no. 5.2.5, the relevant portion of the same is being reproduced as under:

"In the instant case, the notice u/s 148 of the Act under old regime was issued on 09.06.2021. Therefore, as per the illustration the AO had 22 days (days between 9 June 2021 and 30 June 2021] to issue a notice under section 148 of the new regime. This time starts ticking for the AO after receiving the response of the assessee. In this case, as per

notice dated 17.05.2022 vide DIN ITBA/COM/F/17/2022-23/1043042649(1) the AO gave time up to 31.05.2022 to the appellant to submit his response and the appellant did not file any response."

3. As per the said judgments of the Hon'ble Supreme Court, time starts ticking for the AO only after receiving the response of the assessee but it does not say anything about the time limit if no response is submitted by the assessee. Therefore, in the cases like case of the assessee where the assessee did not file response to the notice are not covered by the illustration given by the learned CIT(A) as mentioned above. Therefore, the notice issued u/s 148 in this case on 29.06.2022 is not barred by limitation as per judgments of the Hon'ble Apex Court passed in the case of Ashish Agarwal and Rajeev Bansal."

3. At the outset, ld. DR of the Revenue brought to our notice the relevant facts of the case and filed written submissions which are reproduced below :-

"1. Brief facts of the case are that the appellant is an individual and filed his return of income on 30.09.2013 declaring total income of Rs.23,55,050/- after claiming deduction under chapter VIA 0~Rs.1,00,0001-. In this case order u/s 143(3) was passed 30.03.2016 and total additions of Rs.2,66,22,416 were made in the assessment order. As per the information available with the department the appellant has received amount from M/s. ILA International (Account in DCO Bank bearing 002400210001387) amounting to Rs. 27,01,16,945/- from bank account no, 02400210001387 of DCO Bank. The appellant also debited Rs.2,53,38,244/- from M/s Pandit Cements from Account no. 2400500001543 and Rs. 1,09,03,776/- from M/s Krishna Distributer to M/s ILA International. The case was reopened u/s 147 and notice u/s 148 dated 09.06.2021 was issued to the assessee. Subsequently, the Hon'ble Supreme Court in the case of Union of India & Ors. Vs. Ashish Agarwal & Ors. Vide CIVIL APPEAL NO. 3005/2022 dated 04.05.2022 directed that the notice issued between 01.04.2021 to 30.06.2021 to be treated as show cause notice.

2. Following the above referred judgment of the Hon'ble Apex Court and CBDT's instruction, the notice issued u/s 148 of the Act dated 09.06.2021 was treated as show cause notice u/s 148A(b) of the Income Tax Act and the material underlying was provided to the assessee on 17.05.2022 requiring therein to furnish response within two weeks time in the matter. Thereafter, considering all the material available before him, the jurisdictional Assessing Officer found the case fit for issuance of notice u/s 148 of the Act and passed order 148A(d) of the Act accordingly within the stipulated time frame. Accordingly, a fresh notice u/s 148 of the Act was issued to the assessee on 29.06.2022 with prior approval of the specified authority. Thereafter, the

proceedings were assigned to this Assessment Unit for further assessment proceedings under the Faceless Assessment Regime.

3. The Assessment Unit vide order dated 23.05.2023 passed the order u/s 147 r.w.s. 144 read with section 144~ of the Income Tax Act making addition of Rs.34,28,09,214/- u/s 69A r.w.s. 115BBE of the LT. Act. Aggrieved with the above assessment order, the assessee filed an appeal before CIT(A) on 01.07.2023 who vide order dated 05.03.2025 allowed the appeal of the assessee stating:

5.2.5 In the instant case, the notice U/S 148 of the Act under old regime was issued on 09.06.2021. Therefore, as per the illustration the AO had 22 days [days between 9 June 2021 and 30 June 2021] to issue a notice under section 148 of the new regime. This time starts ticking for the AO after receiving the response of the assessee. In this case, as per notice dated 17.05.2022 vide DIN: ITBAICOMIF11712922-23/1043043117(1), the AO gave time up to 31.05.2022 to the appellant to submit his response and the appellant did not file any response, the AO will have 22 days from 31.05.2022 to issue a reassessment notice under section 148 of the new regime. Thus, the limit for issuance of a notice under section 148 of the new regime expired on 22 June 2022. Therefore, the Impugned notice u/s 148 of The Act dated 29.06.2022 is barred by limitation in view of the Hon'ble Supreme Court decision in the case of Union of India vs Rajeev Bansal (Supra). Hence, the reassessment order is quashed and the Ground No. 5 is Allowed.

5.3 Since reassessment order has been quashed at above, the remaining grounds need not be adjudicated

6.0 In the result, the appeal filed against the order u/s. 147rw.s.144B. of the IT Act, 1961 for the AY 2014-15 is ALLOWED.

4. From the perusal of the order of the CIT(A), it was noted that the CIT(A) has erred in interpreting the order of Hon'ble Supreme Court decision in the case of Union of India v Rajeev Bansal (Supra). The Ld. CIT(A) has not considered the crucial fact that in this case the assessee did not file any response to the notice issued U/S 148 dated 29.06.2022 and therefore the case law of Rajeev Bansal is not applicable in the instant case. As per the said judgments of the Hon'ble Supreme Court, time starts ticking for the AO only after receiving the response of the assessee but it does not say anything about the time limit if no response is submitted by the assessee. Therefore, in the cases like case of the assessee where the assessee did not file response to the notice are not covered by the illustration given by the learned CIT(A) in his order. Since, no response had been filed by the assessee, the time had not started ticking for the JAO and, therefore, the JAO had time to issue notice upto 30.06.2022. Thus, the notice issued U/S 148 in this case on 29.06.2022 is not barred by limitation as per judgments of the Hon'ble Apex Court passed in the case of Ashish Agarwal and Rajeev Bansal. In fact, the assessee remained non-compliant during the entire assessment proceedings. Therefore, Ld.

CIT(A) has erred in deciding the case on incorrect interpretation of ruling of the Hon'ble Supreme Court in the case of Rajeev Bansal ignoring the merit of the case and the fact that the assessee failed to furnish any reply to notice dated 17.05.2022.

5. The relevant Para of the decision of the Hon'ble Supreme Court in the case of Rajeev Bansal [2024] 167 taxmann.com 70 (SC)/[2024] 301 Taxman 238 (SC)/[2024] 469 ITR 46(SC)[03-10-2024]are reproduced herein below:-

"111. The clock started ticking (or the Revenue on Iv after it received the response of the assesses to the show cause notice. After the receipt of the reply, the assessing officer had to perform the following responsibilities: (i) consider the reply of the assessee under section 149A(c); (ii) take a decision under section 149A(d) based on the available material and the reply of the assessee,' and (iii) issue a notice under section 148 if it was a fit case for reassessment. Once the clock started ticking, the assessing officer was required to complete these procedures within the surviving time limit. The surviving time limit, as prescribed under the Income-tax Act read with TOLA, was available to the assessing officers to issue the reassessment notices under section 148 of the new regime.

112. Let us take the instance of a notice issued on 1 May 2021 under the old regime for a relevant assessment year. Because of the legal fiction, the deemed show cause notices will also come into effect from 1 May 2021. After accounting for all the exclusions, the assessing officer will have sixty-one days [days between 1 May 2021 and 30 June 2021] to issue a notice under section 148 of the new regime. This time starts ticking for the assessing officer after receiving the response of the assessee. In this instance, if the assessee submits the response on 18 June 2022, the assessing officer will have sixty-one days from 18 June 2022 to issue are assessment notice under section 148 of the new regime. Thus, in this illustration, the time limit for issuance of a notice under section 148 of the new regime will end on 18 August 2022.

Further, as regards to the limitation jar issue of notice u/s 148 upto 30.06.2022 has been discussed in para no. 19(e) cited as below

6. 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	Within 3 years	Expiry of Limitation read with TOLA for (2)	Within six years	Expiry of limitation read with TOAL for (4)
1	2	3	4	5
2013-2014	31.3.2017	TOLA not applicable	31.3.2020	31.3.2021
2014-2015	31.3.2018	TOLA not applicable	31.3.2021	31.3.2021
2015-2016	31.3.2019	TOLA not applicable	31.3.2022	TOLA not applicable
2016-2017	31.3.2020	30.6.2021	31.3.2023	TOLA not applicable
2017-2018	31.3.2021	30.6.2021	31.3.2024	TOLA not applicable

7. On 11-5-2022, the Central Board of Direct Taxes issued an Instruction for the implementation of the decision Ashish Agarwal (supra). The Instruction "clarified" that Ashish Agarwal (supra) will apply "to all cases where extended reassessment notices have been issued [...] irrespective of the fact whether such notices have been challenged or not." Paragraph 6.1 of the Instruction stated that the reassessment notices will "travel back in time to their original date when such notices were to be issued and then new section 149 of the Act is to be applied at that point." Thus, the Instruction is based on the presumption that the notices issued under Section 148 of the new regime will travel back in time to their original dates, that is, the date when the Section 148 notice under the old regime was issued.

8. In the said case the original notice u/s 148 was issued on 09.06.2022 and in view of the decision of Supreme Court in the case of Ashish Agarwal read with time lines of TOLA, the notice U/S 148 of the IT Act, 1961 in new regime could have been issued upto 30.06.2022.

9. The Ld. CIT(A) has rightly calculated the surviving time for issue of notice u/s 148 of the IT Act, 1961, under the new regime but has failed to appreciate that the time limitation starts ticking for the Revenue only after it received the response of the assesses to the show cause notices.

In light of the facts mentioned above it is requested that the order of Ld. CIT(A) maybe quashed in view of the decision of Hon'ble Supreme Court as discussed above and the case be decided on merits."

4. On the other hand, ld. AR of the assessee submitted the written submissions which is reproduced below :-

1. The Revenue in its grounds of appeal filed before ITAT has failed to correctly appreciate the binding legal position settled by the Hon'ble Supreme Court in *Union of India & Ors. v. Rajeev Bansal (2024 SCC Online SC 2693; 469 ITR 46)*. The Assessee respectfully submits that since the notice under Section 148A(b) of the Income Tax Act, 1961 ("the Act") was issued on 17.05.2022, allowing time till 31.05.2022 to furnish a reply, the said 14-day period is statutorily required to be excluded while computing the "surviving period" for issuance of notice under Section 148, in accordance with paragraph 110 and the third proviso to Section 149 of Act. The Hon'ble Supreme Court, while construing the legal fiction created in *Union of India v. Ashish Agarwal (2022) 138 taxmann.com 64 (SC)*, categorically held that only the surviving time available between the date of issuance of the original notice under the old regime and 30.06.2021 (i.e., the last date extended under TOLA) could be utilized by the Assessing Officer ("AO") after excluding the period granted for reply under Section 148A(b) of the Act.
2. On facts, the original notice under Section 148 was issued on 09.06.2021, leaving a surviving period of 22 days up to 30.06.2021. Pursuant to the Supreme Court's directions in *Ashish Agarwal (supra)*, a fresh show-cause notice under Section 148A(b) was issued on 17.05.2022, providing time till 31.05.2022 for filing a reply. Even assuming that the Assessee did not file any reply, the limitation clock restarted immediately upon the expiry of the reply period on 31.05.2022. The Assessing Officer was therefore required to complete the process under Section 148A(c) and (d) and issue the consequential notice under Section 148 within the surviving 22 days, i.e., on or before 22.06.2022. However, the impugned notice under Section 148 was issued only on 29.06.2022, clearly beyond the permissible period.
3. The contention of the Revenue that the "clock of limitation" would start only from the date of filing of a reply by the assessee is misconceived. Paragraph 110 of *Rajeev Bansal* makes it abundantly clear that only the period actually allowed for reply, i.e., two weeks as per the third proviso to Section 149 is to be excluded, and there is no scope for indefinite suspension of limitation pending reply. This view stands fortified by the decision of the Hon'ble ITAT, Mumbai Bench, in *DCIT v. Prasad Shetty (ITA No. 6256/Mum/2024; order dated 28.04.2025)*, where on similar facts the Tribunal categorically held that once the time granted for reply to the notice under Section 148A(b) expires without any response, the Assessing Officer must issue the notice under Section 148 within the surviving period, and any notice issued thereafter is barred by limitation. The Tribunal clarified that the limitation clock begins immediately upon the expiry of the period permitted for reply, and not upon any subsequent act or inaction on the part of the assessee.
4. In the present case, the notice under Section 148A(b) was issued on 17.05.2022, granting the statutory period of 14 days to furnish a reply. As per the ratio laid down in *Rajeev Bansal (supra)*, this "time allowed for furnishing objections" is to be excluded while computing the limitation for

issuance of a reassessment notice under Section 148. The third proviso to Section 149(1) explicitly mandates exclusion of “*the time or extended time allowed to the assessee to furnish a reply to the show-cause notice under Section 148A(b)*”.

5. The Hon’ble Supreme Court in *Rajeev Bansal* elaborated upon this exclusion in unequivocal terms:

“The third proviso to Section 149 allows the exclusion of time allowed for the assessee to respond to the show-cause notice under Section 148A(b) to compute the period of limitation. The third proviso excludes ‘the time or extended time allowed to the assessee’. Resultantly, the entire time allowed to the assessee to respond to the show-cause notice has to be excluded for computing the period of limitation.” — [para 107]

6. Further, the Court clarified that once such period is excluded, the AO must act strictly within the “surviving time-limit” available under the Act read with TOLA

“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.” — [para 114(h)]

7. Thus, the exclusion operates only for the statutory period granted for furnishing a reply not for any later date when the assessee may actually choose to respond or, as in the present case, where no reply is filed. The judgment draws a critical distinction between the “time allowed” and the “date of reply.” The former is a statutory period determined by the AO under Section 148A(b); the latter is a voluntary act of the assessee that cannot extend limitation. The Supreme Court’s phrase “the entire time allowed ... has to be excluded” leaves no scope for the Revenue to substitute “time allowed” with “date of reply.”

8. The Hon’ble Supreme Court in *Rajeev Bansal* (Supra) adopted the very phraseology of the **third proviso**, holding that “*the third proviso to Section 149 allows the exclusion of time allowed for the assessee to respond to the show-cause notice under Section 148A(b) to compute the period of limitation. The third proviso excludes ‘the time or extended time allowed to the assessee’. Resultantly, the entire time allowed to the assessee to respond to the show-cause notice has to be excluded for computing the period of limitation.*” The Court’s usage of the statutory phrase “*time or extended time allowed*” make it a clear case at it is only such time provided which will be construed for the purposes of limitation and no other date.

9. Paragraph 110 of the judgment further clarifies that the limitation clock remains suspended only during specific exclusionary intervals—namely, “*from the deemed notice till the supply of relevant information/material ...*

and the period of two weeks to reply under Section 148A(b)”—after which it resumes. Paragraph 111 must therefore be read contextually with paragraph 107. While it observes that “*the clock started ticking for the Revenue only after it received the response of the assesseees to the show-cause notices,*” this statement pertains to cases where the assessee has actually filed a reply **within the period allowed**. In such instances, the reply date coincides with the expiry of the allowed period. However, where no reply is filed or it is filed belatedly, the law permits exclusion only of the “*time or extended time allowed*” and not an indefinite hiatus until the assessee’s eventual response. To read paragraph 111 in isolation would defeat both the language and purpose of the third proviso, effectively nullifying the limitation framework under Section 149 of the Act.

10. Finally, paragraph 114(h) of the judgment crystallises this interplay by holding that “*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.*” The conjoint operation of these provisos thus creates a self-contained and finite scheme: the first proviso forbids revival of time-barred cases, while the third proviso merely excludes the *time allowed* for reply—nothing beyond. Once the surviving period expires, the Assessing Officer’s jurisdiction stands extinguished *ipso jure*, and any notice issued thereafter, such as that dated **29.06.2022** in the present case, is *ex facie* barred by limitation and void *ab initio*.
11. Applying these principles, the limitation for issuance of notice under Section 148 expired upon completion of the surviving period, even after excluding the 14-day window from 17.05.2022 to 31.05.2022. The AO was thus bound to issue the notice on or before 22.06.2022 (being the last day of the surviving period, as per the computation chart). Instead, the impugned notice was issued on 29.06.2022, i.e., beyond the jurisdictionally permissible period.
12. The Revenue’s reliance on the first line of paragraph 111 of *Rajeev Bansal*—that “*the clock started ticking for the Revenue only after it received the response of the assesseees to the show-cause notices*” is misplaced when read in isolation. This observation must be construed contextually and harmoniously with paragraph 107 of the same judgment, which explicitly defines the exclusion period as only the “*time or extended time allowed to the assessee*” to furnish a reply under Section 148A(b). When these paragraphs are read together, the Supreme Court’s intent becomes clear the “receipt of reply” clause in paragraph 111 applies only to cases where the assessee actually files a reply within the time permitted under the show-cause notice and as such surviving period is to be computed from such date and not on expiry of stipulated date.

13. In such cases, the limitation clock restarts on the date of receipt of the reply, because the reply was filed within the statutorily allowed period. However, where no reply is filed, or a reply is filed after the expiry of the permitted time, the Assessing Officer cannot indefinitely defer the commencement of limitation. The only period that can be excluded under the statute is the period “allowed” to the assessee, not an indeterminate interval extending until an optional or belated response is received. To hold otherwise would render the jurisdictional limitation under Section 149 illusory and unbounded, contrary to both the legislative intent and the controlling ratio in *Rajeev Bansal* (para 114(h)), which mandates that all notices issued beyond the surviving period are “*time-barred and liable to be set aside.*” Accordingly, the reference to “receipt of reply” in paragraph 111 must be read in the context of a timely reply filed before expiry of due date, and cannot be stretched to postpone limitation in cases of non-response or belated compliance.
14. It is a settled legal principle that jurisdiction, once lost on account of expiry of a statutory time limit, cannot be revived or conferred by acquiescence, consent, or participation of the assessee. Jurisdiction under the reassessment provisions is a condition precedent; it must exist *ab initio* and cannot be validated retrospectively. The Supreme Court, in a long line of authorities, has consistently held that limitation goes to the root of jurisdiction, and any proceedings initiated beyond the prescribed period are null and void. The Revenue’s attempt to justify the impugned notice by contending that the limitation started from the date of reply—when none was filed—is wholly contrary to the express ratio of *Rajeev Bansal* (supra) and the consistent judicial view thereafter.
15. Accordingly, it is submitted that the impugned notice dated 29.06.2022, having been issued beyond the surviving period that ended on 22.06.2022, is *ex facie* barred by limitation and void *ab initio*. The entire reassessment proceedings initiated pursuant thereto are *non est* in law. The subsequent participation or inaction of the assessee cannot cure this foundational jurisdictional defect. Hence, the proceedings deserve to be quashed as being time-barred and without authority of law.
16. To summarise, it is the case of the Assessee that any inaction, acquiescence, or subsequent participation on its part cannot confer jurisdiction upon the Assessing Officer once the proceedings have already become time-barred. Jurisdiction under the reassessment framework is a condition precedent; once it stands extinguished due to the expiry of the statutory limitation period, no subsequent act or conduct of the Assessee can revive it. The Assessing Officer’s authority must exist *ab initio* and cannot be validated *post facto* through waiver, consent, or implied concurrence.
17. It is a settled legal position that the Revenue cannot cure the failure to issue a notice within the stipulated time by relying upon a subsequent reply filed by the Assessee. In the facts of the present case, the notice under Section

148A(b) was issued on 17.05.2022, allowing time up to 31.05.2022 to file a reply. The period of 14 days so allowed stood excluded from computation of limitation in terms of the third proviso to Section 149 read with paragraph 110 of *Rajeev Bansal* (supra). Upon expiry of the said period, the Assessing Officer was required to act strictly within the “surviving period” available under law. However, instead of issuing the notice within such surviving period, which expired on 22.06.2022, the Assessing Officer issued the impugned notice only on 29.06.2022. Such action being beyond the permissible period is *ex facie* barred by limitation and void *ab initio*. The Revenue’s attempt to justify the delayed notice on the basis of the Assessee’s alleged response is contrary to the settled position of law enunciated in *Ashish Agarwal* (supra), *Rajeev Bansal* (supra), and various High Court rulings following the same.

18. The Hon’ble Supreme Court in *Rajeev Bansal* (supra) has exhaustively clarified that only the “period allowed for furnishing objections” to a notice under Section 148A(b) is to be excluded for computing limitation, and not the actual date of reply filed by the assessee. The said distinction is material since “time for furnishing objections” refers to the statutory period granted by the Assessing Officer (generally 14 days), whereas “reply filed by the assessee” is a voluntary act that cannot extend limitation. To hold otherwise would defeat the ratio in *Rajeev Bansal* and enable the Revenue to enlarge the reassessment timeline at its discretion, contrary to the legislative intent and the finality attached to limitation provisions.
19. Applying this principle to the facts of the present case, it is evident that the Assessing Officer failed to issue the reassessment notice within the surviving period even after factoring in the permissible exclusions. The jurisdiction of the Assessing Officer cannot be founded on the Assessee’s participation or on a reply furnished after the expiry of the statutory period/ even in cases where no reply is filed by the Assessee. This position stands fortified by the decision of the Hon’ble Supreme Court in *Kiran Singh v. Chaman Paswan*, AIR 1954 SC 340, wherein it was held that a defect in jurisdiction strikes at the very root of the proceedings and renders them a nullity in the eyes of law. Accordingly, the impugned notice issued on 29.06.2022 and all consequential proceedings are without jurisdiction, being time-barred and void *ab initio*.
20. Finally, the Revenue’s attempt to isolate paragraph 111 of *Rajeev Bansal* and interpret it independently is legally untenable. Paragraph 110 explicitly states that the legal fiction under *Ashish Agarwal* operated to stop the clock for limitation from the date of issuance of Section 148 notices under the old regime, which also became the deemed date for notices under the new regime. The judgment further affirms that the period from the issuance of the deemed notices until the supply of relevant information and material by the Assessing Officers, in compliance with the directions in *Ashish Agarwal*, must be excluded from the computation of the reassessment limitation period. Additionally, the judgment recognizes that the period of

two weeks granted to the assesseees to respond to show-cause notices must also be excluded under the third proviso to Section 149.

21. Reading paragraph 111 in isolation would lead to an erroneous conclusion, as it states that the “*clock started ticking for the Revenue only after it received the response of the assessee to the show-cause notices.*” However, this statement must be understood in light of the exclusions explicitly recognized in paragraph 110. The Revenue’s argument that limitation should be computed solely from the date the assessee files a reply, rather than from the completion of the exclusionary period recognized in paragraph 110, is legally unsustainable. Such an interpretation would disregard the Supreme Court’s explicit recognition that the period for furnishing objections is a separate and independent exclusion that must be accounted for before determining the surviving time for issuance of reassessment notices.
22. If paragraph 111 were to be read in isolation, it would effectively nullify the exclusions granted under paragraph 110 and contradict the well-established jurisprudence that a judgment must be construed harmoniously, ensuring that no provision or finding is rendered redundant. Therefore, paragraph 111 must be read in the broader context of paragraph 110 and the entire judgment, which categorically affirms all statutory exclusions. The Revenue’s attempt to selectively rely on paragraph 111 without considering the exclusions in paragraph 110 is contrary to established principles of statutory interpretation and judicial discipline. The Hon’ble Supreme Court in *Commissioner of Income-tax v. Sun Engineering Works (P.) Ltd.* [1992] 198 ITR 297 (SC) categorically held that “it is not proper to regard a word, a clause or a sentence occurring in a judgment of the Supreme Court, divorced from its context, as containing a full exposition of the law on a question when the question did not even fall to be answered in that judgment.”
23. In light of the above, it is respectfully submitted that in the present case, the notice under Section 148A(b) was issued to the Assessee on 17.05.2022, granting time until 31.05.2022 to file a response. Therefore, in accordance with the ratio of *Rajeev Bansal* and *Ashish Agarwal*, the time period between 17.05.2022 and 31.05.2022, during which the Assessee was given the opportunity to respond, must be excluded from the computation of the limitation period. Admittedly, no extended time was sought or granted. Accordingly, even after applying all permissible exclusions, the reassessment notice dated 29.06.2022 stands barred by limitation and is legally unsustainable.
24. The High Court in *Kanwaljeet Kaur v. Assistant Commissioner of Income Tax Circle (34) 1 Delhi & Ors., W.P.(C) 3908/2023* reaffirmed that this exclusion. The court emphasized that while determining whether a reassessment notice is time-barred, the period granted for furnishing objections must be excluded. In particular, paragraph 16 of the judgment underscores that the period during which the Assessing Officer furnishes

material relied upon for forming an opinion of escapement of income and the time granted for the assessee to furnish objections must also be excluded from the computation of limitation. Relevant extract of the judgement is reproduced for reference:

14. The Supreme Court in Rajeev Bansal has exhaustively examined the impact of its judgment in Ashish Agarwal viewed in the context of the Third Proviso to Section 149(1) as well as the period liable to be excluded in light of Section 3 of TOLA. The Supreme Court has ultimately held that the period between 20 March 2020 to 30 June 2021 would clearly be entitled to be excluded for the purposes of answering the question of limitation for commencement of reassessment action. This it held in light of the statutory command of Section 3(1) of TOLA.

15. In Rajeev Bansal, it was further declared that the period between the date of issuance of the impugned reassessment notices (if falling between 20 March 2020 to 30 June 2021) up to the date of the decision rendered by the Supreme Court in Ashish Agarwal, and that being 04 May 2022, would also be liable to be excluded in light of the Third Proviso to Section 149(1).

16. The third period which was factored in was the date when material in support of the formation of opinion of income having escaped assessment would have been provided to the assessee and the time for furnishing of objections, and which too as the Supreme Court holds in Rajeev Bansal is liable to be excluded.

17. It is the aforementioned three periods which are thus liable to be added to the date when the notice for reassessment was issued in order to answer the question as to whether the reassessment notices could be said to be barred by the timelines as prescribed by Section 149 of the Act.

25. It is respectfully submitted that the Hon'ble Delhi High Court, in the case of ***Ram Balram Buildhome Pvt. Ltd. Vs. Income Tax Officer and Anr. (Supra)***, observed that while calculating the surviving period, the time period allowed or the extended time granted to the Assessee in response to the show cause notice issued under Section 148A(b) of the Income Tax Act must be excluded. The relevant extract from the judgment is reproduced below for your reference:

"50. As is apparent from the above, third proviso to Section 149(1), provides for exclusion of time in computing of the limitation period to the aforesaid extent:

(i) the time or extended time allowed to the assessee in the show cause notice issued under Section 148A(b) of the Act; and

(ii) the period during which proceedings under Section 148A of the Act are stayed by an order or injunction by any court, are required to be excluded.

51. Thus the period of three years or ten years from the end of the relevant assessment year, as the case may be, is required to be computed after excluding the time allowed to an assessee as per the show cause notice issued under Section 148A(b) of the Act or if there is a stay order or injunction passed by any court staying the proceedings under Section 148A of the Act, the period during which the proceedings are so stayed.”

5. Ld. AR further submitted the charts showing the key factor and computation of limitation as per decision of UOI vs. Rajeev Bansal as under :-

A. KEY FACTS

S. No.	Particulars	Date	Relevant Pg. of paper book
1.	Notice issued under section 148 (old regime)	09.06.2021	1
2.	Letter/Notice communicating information pursuant to SC decision in Ashish Agarwal – reply to be filed by 31.05.2022	17.05.2022	2
3.	Letter/Notice issued in continuation of the notice issued on 17.05.2022	19.05.2022	3
4.	Reply filed by Petitioner	-	
5.	Order u/s 148A(d)	29.06.2022	4-6
6.	Notice issued u/s 148- Sanction obtained from PCCIT	29.06.2022	7-8
7.	Copy of letter intimating the DIN for notice under section 148 of the Act issued on 29.06.2022	29.06.2022	9

B. COMPUTATION OF LIMITATION AS PER DECISION OF UOI VS. RAJEEV BANSAL:

S. No.			SC Paras
1.	Assessment Year	2013-14	
2.	Period of limitation u/s 149 [3 years or 6 years]	6 years	
3.	Original Period of Limitation u/s 149	31.03.2020	

4.	Extended period of limitation as per IT Act read with TOLA	30.06.2021	Paras65-69
5.	Sanction to be obtained u/s 151 till 30.06.2021 [within 6 years]	PCIT	
6.	Date of original notice u/s 148 – deemed SCN u/s 148A (b)	09.06.2021	
7.	Time surviving from the date of issuance of deemed SCN till the expiry of the period as extended by TOLA [from 09.06.2021 till 30.06.2021]	22 Days	Paras109-113
8.	Period of deemed stay to be excluded as per 3rd proviso to section 149 [Date of Original 148 till date allowed to file a reply to assessee]	09.06.2021 to 31.05.2022	Paras105-107
9.	Last date for issuing notice u/s 148 [i.e., 31.05.2022+22 days]	22.06.2022	Para77
10.	Actual date of issuance of notice u/s 148	29.06.2022	
11.	Notice u/s 148 issued under the new regime is within time period	No, it is barred by time limitation	Para77

6. Accordingly, in view of his above submissions, he pleaded that the appeal of the Revenue be dismissed and the order of the Id. CIT (A) be upheld.
7. Considered the rival submissions and material placed on record. We observe that the issue is squarely covered by the decision of Hon'ble Supreme Court in the case of PCIT vs Rajeev Bansal (supra) in favour of the assessee and the Hon'ble Supreme Court held as under :-

“111. The clock started ticking for the Revenue only after it received the response of the assessee to the show causes notices. After the receipt of the reply, the assessing officer had to perform the following responsibilities: (i) consider the reply of the assessee under section 149A(c); (ii) take a decision under section 149A(d) based on the available material and the reply of the assessee; and (iii) issue a notice under section 148 if it was a fit case for reassessment. Once the clock started ticking, the assessing officer was required to complete these procedures within the surviving time limit. The surviving time limit, as prescribed under the Income-tax Act read with TOLA, was available to the assessing officers to issue the reassessment notices under

section 148 of the new regime.

112. Let us take the instance of a notice issued on 1 May 2021 under the old regime for a relevant assessment year. Because of the legal fiction, the deemed show cause notices will also come into effect from 1 May 2021. After accounting for all the exclusions, the assessing officer will have sixty-one days [days between 1 May 2021 and 30 June 2021] to issue a notice under section 148 of the new regime. This time starts ticking for the assessing officer after receiving the response of the assessee. In this instance, if the assessee submits the response on 18 June 2022, the assessing officer will have sixty-one days from 18 June 2022 to issue a reassessment notice under section 148 of the new regime. Thus, in this illustration, the time limit for issuance of a notice under section 148 of the new regime will end on 18 August 2022.”

8. Further we observe that Hon’ble Gujarat High Court (supra) in Southern Gujarat Chamber Trade and Industrial Development Centre vs ITO (Gujarat HC) has decided the same issue as under :-

“Section [149](#), read with sections [148](#) and [148A](#), of the Income-tax Act, 1961 - Income escaping assessment - Time limit for issuance of notice (TOLA) - Assessment year 2016-2017 - Assessing Officer issued impugned notice under section 148 on 18-7-2022 for relevant assessment year - Whether in view of decision of Supreme Court in case of Rajeev Bansal [\[2024\] 167 taxmann.com 70/301 Taxman 238/469 ITR 46 \(SC\)](#), considering period of limitation from date of issuance of notice under section 148 read with TOLA upto 30-6-2021, limitation for issuance of impugned notice under section 148 would be 17-6-2022 and thus, impugned notice dated 18-7-2022 having been issued beyond 'surviving time' would be invalid - Held, yes [Paras 7 and 9] [In favour of assessee]”

9. We also observe that ITAT, Mumbai Bench in DCIT vs Prasad Shetty (ITAT Mumbai) (supra) has decided the issue as under :-

“Section [149](#), read with sections [148](#) and [148A](#), of the Income-tax Act, 1961 - Income escaping assessment - Time limit for issuance of notice - Assessment year 2017-18 - Assessee filed its return of income for assessment year 2017-18 - Assessing Officer issued a notice under section 148 dated 28-6-2021 - Thereafter, Assessing Officer issued a show cause notice under section 148A(b) dated 24-5-2022 - Since assessee did not file any reply within due date given, i.e., 7-6-2022, Assessing Officer passed an order under section 148A(d) dated 28-7-2022 and issued a notice under section 148 dated 28-7-2022 - It was noted that original notice under section 148 was issued on 28-6-2021 and therefore, last date on which notice could have been issued under old regime was up till 30-6-2021 and thus, surviving time as laid down by

Supreme Court in case of Union of India v. Rajeev Bansal [[2024](#)] [167 taxmann.com 70/301 Taxman 238/469 ITR 46 \(SC\)](#) was only two days which was to be calculated from 28-6-2021 to 30-6-2021 - Whether therefore, only two days would be available to Assessing Officer from time granted to assessee to give reply to notice that was between 7-6-2022 to 9-6-2022 - Held, yes - Whether thus, he was required to pass order under section 148A(d) and issue notice under section 148 on or before 9-6-2022 and accordingly, impugned notice under section 148 dated 28-7-2022 did not fit in 'surviving time limit' as laid down by Supreme Court in case Rajeev Bansal (supra) - Held, yes - Whether therefore, notice under section 148 dated 28-7-2022 was barred by limitation, and was to be quashed - Held, yes [Para 12] [In favour of assessee]”

10. Respectfully following the aforesaid decisions, we are inclined not to disturb the findings of the Id. CIT (A) and accordingly, dismiss the grounds taken by the Revenue.
11. In the result, the appeal filed by the Revenue in AY 2013-14 is dismissed.
12. With regard to appeal filed by the Revenue for AY 2014-15, since the facts are exactly similar to AY 2013-14 our above findings in Assessment Year 2013-14 are applicable *mutatis mutandis* in AY 2014-15. Accordingly, the appeal filed by the Revenue for AY 2014-15 is dismissed.
13. To sum up : both the appeals filed by the Revenue are dismissed.

Order pronounced in the open court on this day 30TH of December, 2025.

**SD/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

**SD/-
(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**Dated: 30.12.2025
TS**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI