

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI MAKARAND VASANT MAHADEOKAR,
ACCOUNTANT MEMBER**

**ITA No.7502/Mum/2025
(Assessment Year :2017-18)**

Abdul Salam Mohamed Yasin Plot No.339, Industrial Pipes and Tubes Victoria Overbriega Darukhana, Reay Road Mumbai – 400 001	Vs.	DCIT, Circle 17(1), Mumbai
PAN/GIR No.AMFPS1040M		
(Appellant)	..	(Respondent)

Assessee by	Shri Hitesh Jain
Revenue by	Shri Surendra Mohan, Sr. DR
Date of Hearing	19/01/2026
Date of Pronouncement	21/01/2026

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 13.10.2025 passed by the National Faceless Appeal Centre, Delhi, for the quantum of assessment framed under section 147 read with section 144 of the Income-tax Act, 1961, for the assessment year 2017-18.

2. In the grounds of appeal, the assessee has, inter alia, challenged the validity of the reopening under section 148 and the consequential reassessment order passed under section 147 read with section 144B on various jurisdictional and legal grounds.

3. At the threshold, it has been submitted that the notice issued under section 148 of the Act itself is barred by limitation in view of the decision of the Hon'ble Supreme Court in the case of Union of India v. Rajeev Bansal (2024) 469 ITR 46, and further that the mandatory approval for issuance of such notice has been accorded by the Principal Commissioner of Income-tax instead of the Principal Chief Commissioner or the Chief Commissioner of Income-tax, as required under section 151(ii) of the Act. From the perusal of the facts and material on record, it is seen that the following chronology of dates is relevant for adjudicating the jurisdictional challenge raised by the assessee:

1.	Assessment Year	2017-18
2.	Extended deadline to issue notice u/s 148 under old law as per TOLA and notifications issued	30/06/2021
4.	Notice actually issued under old law in the present case	30/06/2021
5.	Date of Supreme Court's order in Ashish Agarwal case	04/05/2022

6.	Date of notice issued u/s 148A(b) in pursuance of Ashish Agarwal in present case	24/05/2022
7.	Time limit to file the reply as per u/s 148A(b)- 2 weeks	07/06/2022
8.	Reply filed by the assessee	Not filed by the appellant
9.	Time excluded as per Rajeev Bansal	30/06/2021 to 07/06/2022
10.	Time that was available/ left to issue notice u/s 148 as per TOLA limit	00 days- 30/06/2021 to 30/06/2021. Therefore, extended by minimum 7 days
11.	Extended time to be given as per fourth Proviso to section 149(1)	7 days from 07-06-2022, i.e. 14/06/2022
12.	Time limit to issue notice u/s 148 as per section 149 as amended by Finance Act 2021 and as per Rajeev Bansal case	14/06/2022, i.e., 7 days from 07-06-2022
13.	Order passed u/s 148A(d)	24/07/2022
14.	Actual date of notice u/s 148	28/07/2022

4. From the aforesaid chronology, it is an admitted position that the original notice under section 148 under the erstwhile regime was issued on 30.06.2021, i.e., the very last day of the extended limitation period made available under the Taxation and Other Laws (Relaxation and Amendment of Certain

Provisions) Act, 2020 (TOLA). Thereafter, pursuant to the judgment of the Hon'ble Supreme Court in *Ashish Agarwal*, the said notice stood statutorily transmuted into a deemed notice under section 148A(b), thereby triggering the substituted procedural framework governing reassessment. In this transitional matrix, the legal fiction created by *Ashish Agarwal* did not operate to revive or enlarge a time-barred jurisdiction, but merely arrested the running of limitation for a finite interregnum, during which the procedural obligations under section 148A were required to be discharged by the Revenue.

5. It is in this doctrinal backdrop that the Hon'ble Supreme Court, in *Rajeev Bansal (supra)*, has authoritatively expounded the manner in which limitation is to be computed in transitional reassessment cases. The Court has clarified that the legal fiction created in *Ashish Agarwal* stopped the clock of limitation with effect from the date of issuance of notices under section 148 under the old regime, which also became the date of issuance of the deemed notices under section 148A(b). The Hon'ble Supreme Court has further held that the period from the date of issuance of the deemed notices till the supply of relevant information and material by the Assessing Officer to the assessee, and the period of two weeks granted to the assessee to reply to the show-cause notice under section 148A(b), must be excluded from the computation of the period of limitation. The Hon'ble Supreme Court has also explained that the clock of limitation resumes only after the Assessing Officer receives the reply of the assessee and that, thereafter, the Assessing Officer is required to

complete, within the surviving time limit, the statutory trilogy of acts, namely, consideration of the reply under section 148A(c), passing of the order under section 148A(d), and issuance of the notice under section 148 of the Act.

6. The relevant portion of the judgment of the Hon'ble Supreme Court in *Rajeev Bansal* (supra), which crystallises the aforesaid legal position, is reproduced hereunder in italics:

“110. The effect of the creation of the legal fiction in Ashish Agarwal (supra) was that it stopped the clock of limitation with effect from the date of issuance of Section 148 notices under the old regime [which is also the date of issuance of the deemed notices]. As discussed in the preceding segments of this judgment, the period from the date of the issuance of the deemed notices 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) has to be excluded from the computation of the period of limitation. Moreover, the period of two weeks granted to the assesses to reply to the show cause notices must also be excluded in terms of the third proviso to Section 149.

111. The clock started ticking for the Revenue only after it received the response of the assesses 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.

7. Applying the aforesaid ratio to the facts of the present case, it is evident that the original notice under section 148 was issued on 30.06.2021, i.e., on the very last day of the extended limitation period under TOLA, leaving no surviving days of limitation available to the Revenue. The only indulgence that could be carved out in favour of the Revenue, in terms of the fourth proviso to section 149(1), was the statutory minimum buffer of seven days, to be reckoned from the expiry of the response period under section 148A(b). In the present case, the show-cause notice under section 148A(b) was issued on 24.05.2022, granting the assessee two weeks to respond, i.e., up to 07.06.2022. Consequently, even on the most liberal and Revenue-favourable construction of the statutory scheme, the maximum outer limit available to the Assessing Officer to issue the final notice under section 148 stood frozen at 14.06.2022.

8. However, the impugned notice under section 148 came to be issued only on 28.07.2022, i.e., well beyond the statutorily permissible terminal date of 14.06.2022. Once the period of

limitation prescribed under section 149, as judicially explicated by the Hon'ble Supreme Court in *Rajeev Bansal (supra)*, stood exhausted, the Assessing Officer stood divested of the authority to invoke the reassessment machinery. The Hon'ble Supreme Court has made it abundantly clear that the legal fiction engrafted in *Ashish Agarwal* does not operate to revive a jurisdiction which has already perished by efflux of time, nor does it permit the Revenue to transcend the hard outer limits of limitation by procedural sequencing. The fiction merely arrests the running of limitation for a finite interregnum and, upon its cessation, the Assessing Officer is required to act strictly within the surviving time window. Where no surviving time remains, or where such time stands exhausted, the jurisdiction to issue a notice under section 148 stands extinguished altogether. In such a situation, the subsequent issuance of a notice under section 148 is not an irregular exercise of jurisdiction but an exercise in the absence of jurisdiction itself. It is now a well-settled principle, repeatedly emphasised in the judgments authored by this Tribunal, that limitation under section 149 is not a matter of procedural convenience but a substantive jurisdictional condition precedent, the breach of which strikes at the very root of the authority of the Assessing Officer to reopen a concluded assessment. A jurisdiction which stands extinguished by statutory limitation cannot be resurrected by compliance with the procedural trappings of section 148A, nor can it be revived by the passing of an order under section 148A(d). Once the jurisdictional foundation collapses by efflux of time, all

subsequent acts founded thereon are rendered legally sterile, incapable of conferring validity upon an otherwise time-barred assumption of jurisdiction.

9. The Hon'ble Supreme Court has further clarified that in cases where the original limitation of three years expired between 23.03.2021 and 31.03.2021, the benefit of the extended limitation would be available only up to 30.06.2021, and thereafter, any notice issued would necessarily attract the rigours of section 151(ii) of the Act, requiring sanction from the higher specified authority. This aspect assumes particular relevance in the present case, where the impugned notice under section 148 has been issued well beyond three years from the end of the relevant assessment year. The statutory scheme, as judicially construed in *Rajeev Bansal*, thus draws a clear and unyielding demarcation between cases where jurisdiction is merely procedurally conditioned and cases where jurisdiction is substantively extinguished. Once the outer temporal boundary prescribed by section 149 is crossed, the power to reopen does not merely become regulated by additional safeguards; it stands fundamentally impaired, and any attempt to invoke it thereafter must strictly conform to the heightened jurisdictional discipline embedded in section 151(ii). The requirement of sanction by the higher specified authority is not an empty formality but a substantive legislative checkpoint, intended to ensure that reopening beyond three years is undertaken only upon a higher threshold of institutional scrutiny. In this context, *Rajeev Bansal* reinforces the principle that limitation and sanction operate in

tandem as twin jurisdictional bulwarks, and that the failure to comply with either is fatal to the validity of the reassessment proceedings. The present case squarely falls within this interdicted zone, where the notice is not only *ex facie* time-barred but is also vitiated by non-compliance with the mandatory sanctional regime under section 151(ii) of the Act.

10. Section 151(ii) of the Act unambiguously provides that where more than three years have elapsed from the end of the relevant assessment year, the specified authority competent to grant approval is the Principal Chief Commissioner of Income-tax or the Chief Commissioner of Income-tax or the Principal Director General or the Director General, as the case may be. The statute does not vest such power in the Principal Commissioner of Income-tax. The requirement of approval by the higher authority is not a mere procedural formality but a substantive jurisdictional safeguard, intended to ensure that the extraordinary power of reopening concluded assessments beyond three years is exercised only upon a higher threshold of institutional scrutiny.

11. This legal position has been consistently reaffirmed by various High Courts, including the jurisdictional High Court. The Hon'ble Bombay High Court, in *Pradeep Himatlal Shah v. ITO* [(2024) 170 taxmann.com 471 (Bom.)] and *Ramesh Bachulal Mehta v. ITO* [(2024) 177 taxmann.com 606 (Bom.)], has categorically held that where notice under section 148 is issued beyond the period of three years, sanction by the Principal

Commissioner of Income-tax is invalid, and such notice is liable to be quashed for want of jurisdiction. Similar views have been echoed by the Hon'ble Gujarat High Court in *Dhanraj Govindram Kella v. ITO* [(2024) 177 taxmann.com 194 (Guj.)].

12. In *Ramesh Bachulal Mehta v. ITO* (supra), which also pertained to assessment year 2016–17, the Hon'ble Bombay High Court, after examining the statutory framework and the judgment of the Hon'ble Supreme Court in *Rajeev Bansal* (supra), held in unequivocal terms that once the notice under section 148 is issued after expiry of three years from the end of the relevant assessment year, approval under section 151(ii) must necessarily be obtained from the higher specified authority, and any sanction accorded by the Principal Commissioner of Income-tax is legally unsustainable, rendering the notice itself void ab initio.

13. Applying the aforesaid settled legal principles to the facts of the present case, it is evident that the impugned notice under section 148, having been issued on 28.07.2022 for assessment year 2017–18, required prior approval from the higher specified authority under section 151(ii) of the Act. Since the approval has admittedly been granted by the Principal Commissioner of Income-tax, the very assumption of jurisdiction by the Assessing Officer stands vitiated. Once the jurisdictional foundation collapses, the consequential proceedings and the assessment framed pursuant thereto cannot survive.

14. Viewed cumulatively, therefore, the impugned reassessment proceedings suffer from a dual and incurable jurisdictional infirmity: first, the notice under section 148 has been issued beyond the statutorily permissible limitation period, as judicially construed by the Hon'ble Supreme Court in Rajeev Bansal; and secondly, the mandatory sanction under section 151(ii) has been accorded by an incompetent authority. Either of these defects, in isolation, would have been sufficient to vitiate the proceedings. Together, they render the entire exercise irredeemably void.

15. In view of the foregoing discussion, and respectfully following the binding ratio of the Hon'ble Supreme Court in Rajeev Bansal (supra), we hold that the notice issued under section 148 of the Act is invalid in law and liable to be quashed. Consequently, the reassessment proceedings and the assessment order framed thereunder are annulled.

16. In the result, the appeal of the assessee is allowed on legal grounds.

Order pronounced on 21st January, 2026.

Sd/-
(MAKARAND VASANT
MAHADEOKAR)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai; Dated 21/01/2026
KARUNA, *sr.ps*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

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BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai