आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष

BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENTAND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./**ITA No.:3013/CHNY/2024**

निर्धारण वर्ष/Assessment Year:2013-14

Smt. Lakshmi Narasimhan Santhi, Plot No.6, SriNrisimham Pratish Street, VGN Avenue, Eri-Scheme, Mogappair West, Chennai – 600 037.	Vs.	**The Asst. Commissioner of Income Tax,** Non-Corporate Circle-7(1), Chennai.
PAN: ACAPS 7420C		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri S.R. Srikrishna, CA
प्रत्यर्थी की ओर से/Respondent by : Shri Kumar Chandan, JCIT

सुनवाई की तारीख/Date of Hearing : 19.06.2025
घोषणा की तारीख/Date of Pronouncement : 03.07.2025

आदेश /O R D E R

PER GEORGE GEORGE K, VICE PRESIDENT:

This appeal filed at the instance of the assessee is directed against the order of Commissioner of Income Tax (Appeals)/National

Faceless Appeal Centre (NFAC), Delhi dated 04.09.2024 passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2013-14.

2. Brief facts of the case are as follows: The assessee is an individual. For the assessment year 2013-14, the return of income was filed on 26.03.2024 declaring total income of Rs.14,19,860/-. Subsequently, a notice u/s.148 of the Act was issued on 30.06.2021 as per the old regime within the extended time limit in view of Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (TOLA). The reason for issuing notice u/s.148 of the Act was that assessee along with seven co-owners had sold an immovable property during the relevant assessment year, which suggested escapement of income. Later on, as per CBDT's instruction No. 1/2022 of F.No.279 /Misc. /M-51/2022-ITJ dated 11th May 2022 on Implementation of judgment of Hon'ble Supreme Court dated 04.05.2022 in the case of Union of India Vs. Ashish Agarwal reported in 441 ITR 1, adjudicated on the validity of issue of reassessment notice issued during the period from 01.04.2021 to 30.06.2021 within the time extended by TOLA, 2020, the information and material relied upon for issuance of extended reassessment notice dated 30.06.2021 was communicated to the assessee vide

letter dated 02.06.2022. In response to the said communication issued on 02.06.2022 in accordance with directions issued by CBDT in implementation of judgment of Hon'ble Supreme Court, the assessee submitted response on 11.06.2022 which was duly considered while passing order u/s 148A(d) dated 28.07.2022 followed by issue of notice u/s 148 dated 28.07.2022 with prior approval of the competent authority. The assessment proceeding for the AY 2013-14 was completed u/s 143(3) r.w.s 147 of the Act on 24.05.2023 wherein addition of Rs. 97,09,569/- was made on account of long term capital gains which the assessee failed to offer in ITR filed for the AY 2013-14.

3. Aggrieved by the said assessment order the assessee filed appeal before the First Appellate Authority (FAA) raising several grounds of appeal. The FAA after considering all the aspects (factual and legal) of the case, partly allowed the appeal of the assessee subject to verification by the AO on certain aspects before allowing such reliefs.

4. Aggrieved by the order of the FAA dated 04.09.2024, the assessee filed appeal before the Tribunal. The assessee, vide additional submissions dated 18.03.2025 and 24.04.2025 questioned

the jurisdictional issues relying on the Hon'ble Apex Court's judgment in the case of Rajiv Bansal vs Union of India reported in 469 ITR 46 (SC).

5. The Ld.AR submitted that notice u/s.148 of the Act dated 28.07.2022 is time barred and liable to be set aside as the said notice is 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, *supra*.

6. The Ld.DR submitted that the notice u/s.148 of the Act as per the old regime read with TOLA 2022 was issued on 30.06.2021. The AO considering the Hon'ble Apex Court Judgment in the case of Union of India vs. Ashish Agarwal reported in 441 ITR 1 and the CBDT Instruction No.1/2022 dated 11.05.2022 had followed the procedure laid down by the Hon'ble Apex Court. Hence, the notice issued is not barred by limitation.

7. We have heard rival submissions and perused the material on record. The Finance Act, 2021 revamped the entire scheme of re-assessment procedure u/s 147 to 151, w.e.f 01.04.2021. Thus, the old regime of re-assessment ended on 31.03.2021 and the new

regime of re-assessment started from 01.04.2021. Due to COVID-19, the Government introduced the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (TOLA), extending time limits. Accordingly, the time available for the Department to issue notice u/s 148 of the Act under Old Regime, falling during the period from 20.03.2020 till 31.03.2021, were extended till 30.06.2021. The starting point of these entire chain of litigation was that, since the Old regime of re-assessment had ended on 31.03.2021, was it valid to issue notice based on an ended regime during the extended period of 01.04.2021 to 30.06.2021. Further, to issue notice under New Regime, required a notice u/s 148A(b) and an order passed u/s 148A(d).

8. The Hon'ble Supreme Court resolved this issue in the case of UOI & Ors Vs Ashish Agarwal reported in 444 ITR 1, by exercising powers under Article 142 of the Constitution of India. The Hon'ble Supreme court in Para-10(i) held that the notice u/s 148 of the Act issued under Old Regime between the period of 01.04.2021 to 30.06.2021, shall be deemed to be a show cause notice u/s 148A(b) of the New Regime and that the AO shall provide information and materials relied upon by revenue within 30 days of the judgment, so that assessee can reply within two weeks thereafter. Accordingly, the

revenue assumed jurisdiction for all such cases, based on the judgment of Hon'ble Supreme Court in the case of Ashish Agarwal (*supra)* and went ahead with procedures culminating in assessment.

9. These assessments triggered a second round of litigation, primarily on the fact that, if the re-assessment notices issued u/s 148 of the New Regime were valid or not. In the Second round, the Hon'ble Supreme Court in the case of UOI & Ors Vs Rajeev Bansal, reported in 469 ITR 46, held that after exclusion of limitations, the notices u/s 148 of New Regime should be issued within the "SURVING PERIOD" and anything issued beyond surviving period is time barred and liable to be set-aside.

10. The Submission made before us is that the notice issued u/s 148 of the Act dated 28.07.2022, for AY-2013-14, in the case of the assessee is time barred as it was issued beyond the surviving period as specified in the case of Rajeev Bansal (supra). The relevant dates in the case of assessee are as follows:-

Serial	***Particulars***	***Date***
1)	*Date of issue of Notice u/s 148 of OLD regime during the period 01.04.2021 to 30.06.2021*	*30.06.2021*
2)	*Date of supply of information as per judgment of Asish Agarwal*	*02.06.2022*
3)	*Date of reply filed by the Assessee for the above*	*11.06.2022*

4)	*Date of passing of order u/s 148A(d)*	*28.07.2022*
5)	*Date of issue of notice u/s 148 of New Regime*	*28.07.2022*

11. The manner of computation of surviving period and limitation, as provided in case of Rajeev Bansal (*supra)*, are as follows:

> 1st. Surviving period is calculated by computing the number of days between the date of issuance of the deemed notice and 30th June, 2021 (Para-108)
>
> 2nd. The surviving period starts ticking from the date of receipt of response by AO (Para-111 & 112)
>
> 3rd. The AO has to consider response of the Assessee u/s 148A(c), pass order u/s 148A(d) and issue notice u/s 148 of New regime, all these procedures has to happen within the surviving period (Para-111)
>
> 4th. Only notices issued within the surviving period calculated from the date of receipt of response by AO is valid. The notices issued beyond surviving period is time barred and liable to be set-aside (Para-113 and 114(g) & 114(h))

12. Applying the above principles laid down by the Hon'ble Supreme Court to the facts of the instant case and adopting a conservative computation, notice issued u/s.148 of the Act will time barred by 35 days as detailed below (The judgment of Hon'ble Apex Court in the case of Rajeev Bansal, *supra* does not specify the application of fourth proviso of section 149(1), which governs time limit for notice

u/s.148 of the Act. Still in the below computation, we have taken the outer limit of 7 days extension)

Serial	***PARTICULARS***	***COMPUTATION***	***DATES***
1	*Date of issue of Original Notice u/s 148 within TOLA Period*	*A*	*30-06-2021*
2	*Last date of TOLA*	*B*	*30-06-2021*
3	*Balance (On Inclusive method)*	*C = B -A*	*1*
4	*Minimum days available as per 4th Proviso of Section 149(1)*	*D*	*7*
5	***Then SURVIVING PERIOD (Para-108 to 113 of Rajeev Bansal)***	***E (Higher of C & D)***	*7*
6	*Date of response filed by Appellant to 148A(b) notice*	*F*	*11-06-2022*
7	*Date on which Period of two weeks allowed to assessee to respond to notice ends (deemed stay as per 3rd proviso to section 149 and **Para 114 (g) of Rajeev Bansal**)*	*G*	*16-06-2022*
8	*Last date for issuing notice u/s 148 [i.e., 16.06.2022+ 7 days]*	*H = E + G*	*23-06-2022*
9	*Actual date of issuance of notice u/s 148*	*H*	*28-07-2022*
10	***Then Notice is time Barred by (Para 114 (H) of Rajeev Bansal)***	***I = H - G***	***35***

13. The judicial precedents upholding the above proposition are as follows:-

i. *Judgment of Jurisdictional Madras High Court in Mrs.Thulasidass Prabavathi Vs ITO [W.P.No.19010 of 2022] (Para-16 & 17)*
ii. *Judgment in ACIT Vs Amit Jain SLP (Supreme Court) (Civil) Diary No.32211/2024 (303 taxman 163) (Para-2 to 4)*
iii. *Judgment of KULWANT SINGH & ORS. vs. UNION OF INDIA & ORS (341 CTR (P&H) 700) (Para-6 & 8)*
iv. *Judgment of Delhi High Court in RAM BALRAM BUILDHOME PVT. LTD Vs ITO & Ors [W.P.(C) 16232/2024] (reported in (2025) 9 NYPCTR 157 (Delhi)) (Para-65 to 73)*

v. *Judgment of Delhi High Court in KANWALJEET KAUR & ORS Vs ACIT Delhi[W.P.(C) 3908/2023] (Para-24 & 28)*
vi. *Order of ITAT Raipur in M/s. Kachrulal Jitendra Kumar Vs The ITO [ITA No.307/RPR/2024] (Para-23 to 25)*
vii. *Order of ITAT Raipur in DCIT VS Shri Vinay Agrawal [ITA No: 29 & 30/RPR/2025] (Para-19 & 20)*
viii. *Order of ITAT Mumbai in ACIT Vs Ramchand Thakurdas Jhamtani [ITA No. 3553/MUM/2024] (Para-9 & 10)*
ix. *Order of ITAT Mumbai in ITO Vs Sumitra Rajeshbhai Jain [ITA No. 3553/MUM/2024] (Para-22 & 23)*
x. *Order of ITAT Mumbai in Nilanjana Arvinder Singh Vs DCIT [ITA No.6140/MUM/2024] (Para-30 & 31)*
xi. *Order of ITAT Mumbai, in DCIT Vs Larsen & Toubro Ltd in ITA No-5743 & 5745 of 2024, reported in 173 taxmann.com 582 (para-10.2)*
xii. *Order of ITAT Pune in DCIT VS Kolte Patil [ITA Nos. 2011 & 2023/Pune/2024; Asst. yrs. 2014-15 & 2016-17], reported in (2025) 235 TTJ (Pune) 113 : (2025) 39 NYPTTJ 552 (Pune) (Para-45)*

14. The above judicial precedents have categorically upheld the above proposition and has held the notice to be time barred if they are beyond surviving period. We notice that ITAT Pune SMC Bench, in the case of Pushpadevi Shivlal Rathi Vs ITO in ITA No.1995/PUN/2024 for AY-2014-15, had held against the assessee. However, subsequently co-ordinate Bench of ITAT Pune in the case of DCIT VS Kolte Patil reported in (2025) 235 TTJ (Pune) 113 had decided the issue in favour of assessee.

15. Report of AO dated 09.06.2025 before us confirms the relevant dates and AO has not contradicted the ratio laid down in case

Rajeev Bansal, *supra.* The AO has only stressed that the 148A(d) order and the notice u/s 148 of new regime, both dated 28.07.2022, were within the period, as specified in 148A(d), of one month from the end of the month in which reply is received. However, this issue has been elaborately dealt with by Hon'ble Supreme Court in the case of Rajeev Bansal (Supra) and also by other judicial forums. The Hon'ble Delhi High Court at Para-71 in the case of Ram Balram Buildhome (Supra), has held that the time available u/s 148A(d) was "necessarily truncated" and the same was required to be passed within the surviving period.

16. Further, Hon'ble jurisdictional Madras High Court in the case of Mrs.Thulasidass Prabavathi (Supra) has held the notice u/s 148 issued beyond surviving period to be time barred. In Para-4 & 5 of the judgment, clearly specify the dates and events. In that case, the notice u/s 148 of old regime was on 21.06.2021, the reply was filed by assessee on 31.05.2022 and the order u/s 148A(d) / 148 Notice was issued on 30.06.2022. Even though as per 148A(d), the AO had time of one month from the end of the month to pass the order (In this case such time happens to be 30.06.2022), the same was truncated to the extent of surviving period and the notice was held to

be time barred. Hence, legal contention raised by Ld.AR is squarely covered in favour of assessee.

17. In view of the above judgment of Hon'ble Supreme Court and Hon'ble Jurisdictional Madras High Court, we hold that the notice dated 28.07.2022 issued u/s 148 of the New Regime in respect of assessment year 2013-14 is time barred and re-assessment order pursuant to the same is set-aside.

18. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 3rd July, 2025 at Chennai.

Sd/-	*Sd/-*
(एस.आर. रघुनाथा)	(जॉर्ज जॉर्ज के)
(S.R. RAGHUNATHA)	**(GEORGE GEORGE K)**
लेखा सदस्य/ACCOUNTANT MEMBER	उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,
दिनांक/Dated, the 3rd July, 2025

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.