



W.P.(MD) Nos.30938 of 2024 etc., batch

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD)Nos.30938, 30939, 30940 of 2024

and

W.P.(MD)Nos.5328, 5329 and 5330 of 2025

and

W.M.P.(MD)Nos.26014, 26016, 26012, 26013, 26017, 26019, 3908, 3909,
3912, 3913, 3915 and 3916 of 2025

(Through Video Conferencing)

W.P.(MD)Nos.30938, 30939 and 30940 of 2024

D.Tamilselvi,

W/o.Dhamodaran

... Petitioner in all W.Ps.

Vs.

1.The Income Tax Officer,
Ward 3, Virudhunagar,
Madura Coats Compound,
Railway Feeder Road,
Virudhunagar – 626 001.

2.National Faceless Assessment Centre,
Assessment Unit,
Ministry of Finance,
Delhi – 110 003.

... Respondents in all W.Ps.



W.P.(MD) Nos.30938 of 2024 etc., batch

Prayer in W.P.(MD) No.30938 of 2024: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for records pertaining to the issue of the impugned Assessment Order dated 26.05.2023 vide DIN & Order: ITBA/AST/S/147/2023-24/1053211522(1) for the Assessment Year 2016-17 relating to PAN Number AUQPT8992C and Show Cause Notice for penalty under Section 271(1)(c) dated 20.12.2023 on the file of the 2nd Respondent and to quash the same.

Prayer in W.P.(MD) No.30939 of 2024: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for records pertaining to the issue of the impugned Assessment Order dated 21.03.2024 vide DIN: ITBA/AST/S/147/2023-24/1063094402(1) for the Assessment Year 2018-19 relating to PAN Number AUQPT8992C and notice for penalty under Section 271AAC(1) dated 21.03.2024 both on the file of the 2nd Respondent and to quash the same.

Prayer in W.P.(MD) No.30940 of 2024: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for records pertaining to the issue of the impugned Assessment Order dated 29.03.2022 vide DIN: ITBA/AST/S/147/2021-22/1041962450(1) for the Assessment Year 2017-18 relating to PAN Number AUQPT8992C and impugned penalty notice under Section 272A(1)(d) dated 25.03.2022 vide DIN: ITBA/PNL/S/272A(1)(d)_FL/2021-22/1041496249(1) and impugned penalty notice under Section 271AAC(1) dated 29.03.2022 vide DIN: ITBA/PNL/S/271AAC(1)/2021-22/1041962795(1) all on the file of the 2nd Respondent and to quash the same.



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W.P.(MD)Nos.5328, 5329 and 5330 of 2025

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MJR Hospitality and Service Apartments,
Represented by its Managing Partner
M.Joseph Rathinasamy,
No.65, Observatory Road,
Observatory Post,
Kodaikanal – 624 103.

... Petitioner in all W.Ps.

Vs.

1.The Income Tax Officer,
Ward 1, Dindigul,
Dindigul – Palani Bye Pass Road,
Kottapatti Post,
Dindigul – 624 002.

2.The Assistant Commissioner of Income Tax,
Central Circle,
Madurai, Ground Floor,
Income Tax Office – Madurai ME,
Income Tax Staff Quarters Complex,
Kulamangalam Main Road,
Meenambalpuram,
Madurai – 625 002.

... Respondents in all W.Ps.

Prayer in W.P.(MD) No.5328 of 2025: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for records pertaining to the issue of the impugned Assessment Order dated 31.03.2023 vide DIN & Order: ITBA/AST/S/147/2022-23/1051790376(1) and the order of penalty under Sections 274 read with 271(1)(c) of the Act vide DIN & Notice No: ITBA/PNL/S/271(1)(c)/2022-23/1051790492(1) dated 31.03.2023 on the file of the 2nd respondent and to quash the same.

Prayer in W.P.(MD) No.5329 of 2025: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for records pertaining to the issue of the impugned Assessment Order dated 31.03.2023 vide DIN & Order: ITBA/AST/S/147/2022-23/1051729568(1) and the notice of



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penalty under Sections 274 read with 271AAC(1) of the Act vide DIN & Notice No: ITBA/PNL/S/271AAC(1)/2022-23/1051794905(1) dated 31.03.2023 on the file of the 2nd respondent and to quash the same.

Prayer in W.P.(MD) No.5330 of 2025: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for records pertaining to the issue of the impugned Assessment Order dated 31.03.2023 vide DIN & Order No: ITBA/AST/S/147/2022-23/1051729505(1) and the order of penalty under Sections 274 read with 271AAC(1) of the Act vide DIN & Notice No: ITBA/PNL/S/271AAC(1)/2022-23/1051795239(1) dated 31.03.2023 on the file of the 2nd respondent and to quash the same.

For Petitioner : Mr.P.Madhavan
(In all W.Ps)

For Respondents : Mr.N.Dilip Kumar
(In all W.Ps)

COMMON ORDER

These cases are listed today under the caption 'For Being Mentioned' at the instance of the learned counsel appearing for the Petitioner.

2. Final Order dated 15.09.2025 was pronounced at Chennai through Video Conferencing in presence of the learned counsel for the Petitioner who was present in person in the Chamber and in presence of the learned counsel for the Respondents who had logged in through Video Conferencing. These cases were earlier reserved for passing orders on 18.08.2025. However, while uploading the order in the web portal, the “draft notes” dictated and prepared



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for finalizing the order was uploaded in the web portal by mistake by the

Personal Assistant at Madurai.

3. This came to my knowledge only on 27.10.2025, when I had asked the counsels to download a copy of the order and to produce the same in connection with a batch listed for hearing on the said date. However, they were unable to locate the same. In the evening, the “draft notes” dictated in the open Court on 11.08.2025 before reserving the case “For Pronouncing Orders” on 18.08.2025 was produced by the Court Officer.

4. The Registry is therefore directed to substitute the “draft notes” that was uploaded by mistake in the web portal and upload the copy of final order signed on 15.09.2025 and issue order copy afresh, if certified copy of the “draft notes” has not been issued already.

29.10.2025

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To:

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- 1.The Income Tax Officer,
Ward 3, Virudhunagar,
Madura Coats Compound,
Railway Feeder Road,
Virudhunagar – 626 001.
- 2.National Faceless Assessment Centre,
Assessment Unit,
Ministry of Finance,
Delhi – 110 003.
- 3.The Income Tax Officer,
Ward 1, Dindigul,
Dindigul – Palani Bye Pass Road,
Kottapatti Post,
Dindigul – 624 002.
- 4.The Assistant Commissioner of Income Tax,
Central Circle,
Madurai, Ground Floor,
Income Tax Office – Madurai ME,
Income Tax Staff Quarters Complex,
Kulamangalam Main Road,
Meenambalpuram,
Madurai – 625 002.



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C.SARAVANAN, J.

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W.P.(MD)Nos.30938, 30939, 30940 of 2024
and
W.P.(MD)Nos.5328, 5329 and 5330 of 2025

29.10.2025



W.P.(MD) Nos.30938 of 2024 etc., batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	18.08.2025
Pronounced on	15.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) Nos.30938, 30939, 30940 of 2024

and

W.P.(MD)Nos.5328, 5329 and 5330 of 2025

and

W.M.P.(MD)Nos.26014, 26016, 26012, 26013, 26017, 26019, 3908, 3909,
3912, 3913, 3915 and 3916 of 2025

W.P.(MD)Nos.30938, 30939 and 30940 of 2024

D.Tamilselvi,

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... Respondents in all W.Ps.



W.P.(MD) Nos.30938 of 2024 etc., batch

Prayer in W.P.(MD) No.30938 of 2024: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for records pertaining to the issue of the impugned Assessment Order dated 26.05.2023 vide DIN & Order: ITBA/AST/S/147/2023-24/1053211522(1) for the Assessment Year 2016-17 relating to PAN Number AUQPT8992C and Show Cause Notice for penalty under Section 271(1)(c) dated 20.12.2023 on the file of the 2nd Respondent and to quash the same.

Prayer in W.P.(MD) No.30939 of 2024: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for records pertaining to the issue of the impugned Assessment Order dated 21.03.2024 vide DIN: ITBA/AST/S/147/2023-24/1063094402(1) for the Assessment Year 2018-19 relating to PAN Number AUQPT8992C and notice for penalty under Section 271AAC(1) dated 21.03.2024 both on the file of the 2nd Respondent and to quash the same.

Prayer in W.P.(MD) No.30940 of 2024: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for records pertaining to the issue of the impugned Assessment Order dated 29.03.2022 vide DIN: ITBA/AST/S/147/2021-22/1041962450(1) for the Assessment Year 2017-18 relating to PAN Number AUQPT8992C and impugned penalty notice under Section 272A(1)(d) dated 25.03.2022 vide DIN: ITBA/PNL/S/272A(1)(d)_FL/2021-22/1041496249(1) and impugned penalty notice under Section 271AAC(1) dated 29.03.2022 vide DIN: ITBA/PNL/S/271AAC(1)/2021-22/1041962795(1) all on the file of the 2nd Respondent and to quash the same.



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WEB COPY W.P.(MD)Nos.5328, 5329 and 5330 of 2025

MJR Hospitality and Service Apartments,
Represented by its Managing Partner
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No.65, Observatory Road,
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Vs.

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Ward 1, Dindigul,
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Kottapatti Post,
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2.The Assistant Commissioner of Income Tax,
Central Circle,
Madurai, Ground Floor,
Income Tax Office – Madurai ME,
Income Tax Staff Quarters Complex,
Kulamangalam Main Road,
Meenambalpuram,
Madurai – 625 002.

... Respondents in all W.Ps.

Prayer in W.P.(MD) No.5328 of 2025: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for records pertaining to the issue of the impugned Assessment Order dated 31.03.2023 vide DIN & Order: ITBA/AST/S/147/2022-23/1051790376(1) and the order of penalty under Sections 274 read with 271(1)(c) of the Act vide DIN & Notice No: ITBA/PNL/S/271(1)(c)/2022-23/1051790492(1) dated 31.03.2023 on the file of the 2nd respondent and to quash the same.

Prayer in W.P.(MD) No.5329 of 2025: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for records



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pertaining to the issue of the impugned Assessment Order dated 31.03.2023 vide DIN & Order: ITBA/AST/S/147/2022-23/1051729568(1) and the notice of penalty under Sections 274 read with 271AAC(1) of the Act vide DIN & Notice No: ITBA/PNL/S/271AAC(1)/2022-23/1051794905(1) dated 31.03.2023 on the file of the 2nd respondent and to quash the same.

Prayer in W.P.(MD) No.5330 of 2025: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for records pertaining to the issue of the impugned Assessment Order dated 31.03.2023 vide DIN & Order No: ITBA/AST/S/147/2022-23/1051729505(1) and the order of penalty under Sections 274 read with 271AAC(1) of the Act vide DIN & Notice No: ITBA/PNL/S/271AAC(1)/2022-23/1051795239(1) dated 31.03.2023 on the file of the 2nd respondent and to quash the same.

For Petitioner : Mr.P.Madhavan
(In all W.Ps)

For Respondents : Mr.N.Dilip Kumar
(In all W.Ps)

COMMON ORDER

I have considered the arguments advanced by the learned counsel for the Petitioner and the learned counsel for the Respondents.

2. By this Common Order, all six Writ Petitions are being disposed of. In these Writ Petitions, these two Petitioners are challenging the respective Assessment Orders passed on the following dates and the Penalty Notices under Section 271AAC(1)/271(1)(c) of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') for the corresponding Assessment Years:-



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Table I:

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A.

D.Tamil Selvi			
W.P. (MD) No.	Assessment Year	Impugned Assessment Order Date	Impugned Penalty Notice u/s 271AAC
30938/2024	2016-2017	26.05.2023	20.12.2023
30939/2024	2018-2019	21.03.2024	21.03.2024
30940/2024	2017-2018	29.03.2022	29.03.2022

B.

MJR Hospitality and Services Apartments			
W.P. (MD) No.	Assessment Year	Impugned Assessment Order Date	Impugned Penalty Notice u/s 271AAC
5328/2025	2016-2017	31.03.2023	31.03.2023
5329/2025	2017-2018	31.03.2023	31.03.2023
5330/2025	2018-2019	31.03.2023	31.03.2023

3. The issue in these Writ Petitions pertains to Notices issued under Section 148 of the Act as it stood prior to 01.04.2021 and on account of the complication due to interpretations placed by the Hon'ble Supreme Court in **Union of India Vs. Ashish Agarwal., (2023) 1 SCC 617** on the limitations under the new regime with effect from 01.04.2021 in Chapter XIV of the Act.

4. In five out of six these cases, Notices under Section 148 of the Act, as it stood prior to **01.04.2021** were issued. For the Petitioner in **W.P. No. 30939**



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of 2025 pertaining to the **Assessment Year 2018-2019**, Notice under Section 148A(b) of the Act was issued directly.

5. After the introduction of the new provision with effect from **01.04.2021** in Chapter XIV of the Act, Notices were issued under Section 148 of the Act where income had escaped assessment. These Notices were issued under Section 148 of the Act under the old regime as in force till 31.03.2021. There were large-scale challenges to such proceedings in the various High Courts, resulting in large scale confusion in the administration of the Act.

6. Thus there were flurry of Writ Petitions in various High Courts where Notices issued on or after **01.04.2021** under the old regime as in force till **31.03.2021** were challenged. Conflicting views were expressed by different High Courts.

7. Therefore, to quell further confusions arising out of different/conflicting views of different High Courts, the Hon'ble Supreme Court stepped in a batch of cases and finally disposed the cases on **04.05.2024** in **Union of India Vs. Ashish Agarwal** case referred to *supra*.



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8. Relevant portion from the decision of the Hon'ble Supreme Court in

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Union of India Vs. Ashish Agarwal case referred to *supra* is extracted below:-

"28. In view of the above and for the reasons stated above, the present appeals are allowed in part. The impugned common judgments and orders [Ashok Kumar Agarwal v. Union of India, 2021 SCC OnLine All 799] passed by the High Court of Judicature at Allahabad in WT No. 524 of 2021 and other allied tax appeals/petitions, is/are hereby modified and substituted as under:

28.1. The impugned Section 148 notices issued to the respective assesseees which were issued under unamended Section 148 of the IT Act, which were the subject-matter of writ petitions before the various respective High Courts shall be deemed to have been issued under Section 148-A of the IT Act as substituted by the Finance Act, 2021 and construed or treated to be show-cause notices in terms of Section 148-A(b). The assessing officer shall, within thirty days from today provide to the respective assesseees information and material relied upon by the Revenue, so that the assesseees can reply to the show-cause notices within two weeks thereafter.

28.2. The requirement of conducting any enquiry, if required, with the prior approval of specified authority under Section 148-A(a) is hereby dispensed with as a one-time measure vis-à-vis those notices which have been issued under Section 148 of the unamended Act from 1-4-2021 till date, including those which have been quashed by the High Courts.

28.3. Even otherwise as observed hereinabove holding any enquiry with the **prior approval** of specified authority is **not mandatory** but it is for the assessing officers concerned to hold any enquiry, if required.



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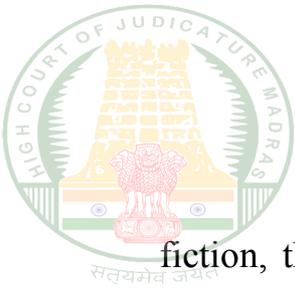
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28.4. *The assessing officers shall thereafter pass orders in terms of Section 148-A(d) in respect of each of the assessee concerned; Thereafter after following the procedure as required under Section 148-A may issue notice under Section 148 (as substituted).*

28.5. *All defences which may be available to the assessee including those available under Section 149 of the IT Act and all rights and contentions which may be available to the assessee concerned and Revenue under the Finance Act, 2021 and in law shall continue to be available."*

9. The Court in **Ashish Agarwal** case referred to supra had held that the notices issued under Section 148 of the Act as in force till 31.03.2021 between **April 1, 2021** and **June 30, 2021** were deemed to have been issued during the period were stayed till the date of supply of the relevant information and material by the Assessing Officer to the assessee.

10. In **Union of India Vs. Ashish Agarwal** case referred to *supra*, the Hon'ble Supreme Court directed the Assessing Officers to provide relevant information and materials relied upon by the Revenue to the assessee within thirty days from the date of the judgement. A Show Cause Notice is effectively issued in terms of Section 148A(b) of the Act only if it is supplied along with relevant information and material by the Assessing Officer. Due to the legal



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fiction, the Assessing Officers were deemed to have inhibited from acting in pursuance of the Section 148A(b) of the Act notice till the relevant material was supplied to the assesseees.

11. Therefore, the show-cause notices were deemed to have been stayed until the Assessing Officers provided the relevant information or material to the assesseees in terms of the direction issued in **Union of India v. Ashish Agarwal** case referred to *supra*.

12. To summarize, the combined effect of the legal fiction and the directions issued by the court in **Union of India v. Ashish Agarwal** case referred to *supra* was that the show-cause notices that were deemed to have been issued during the period between April 1, 2021 and June 30, 2021 were stayed till the date of supply of the relevant information and material by the Assessing Officer to the assessee. After the supply of the relevant material and information to the assessee, time begins to run for the assesseees to respond to the show-cause notices.

13. Thus, computation of limitation under Section 149 of the Act for issuance of Section 148 Notice under the new regime is as follows:-



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- i. the time during which the show-cause notices were effectively stayed, that is, from the date of issuance of the deemed notice between April 1, 2021 and June 30, 2021 till the supply of relevant information or material by the Assessing Officers to the assesseees in terms of the directions in *Union of India Vs. Ashish Agarwal*, [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617]; and
- ii. two weeks allowed to the assesseees to respond to the show-cause notices.

14. The aforesaid decision of the Hon'ble Supreme Court in **Union of India and Others vs. Ashish Agarwal** case referred to *supra* was subsequently followed with an instruction of the **Central Board of Direct Taxes (CBDT)** dated **11.05.2022** in **Instruction No. 1/2022**.

15. The said instruction clarified that the decision would apply to all cases where reassessment notices had been issued, irrespective of whether such notices had been challenged.

16. Relevant portion of the instruction issued by the **Central Board of Direct Taxes (CBDT)** in **Instruction No. 1/2022** dated **11.05.2022** reads as under:

“8.1 The procedure required to be followed by the Jurisdictional Assessing Officer/Assessing Officer, in



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compliance with the order of the Hon'ble Supreme Court, is as under:

- The extended reassessment notices are deemed to be show cause notices under clause (b) of section 148A of the Act in accordance with the judgment of Hon'ble Supreme Court. Therefore, all requirement of new law prior to that show cause notice shall be deemed to have been complied with.
- The Assessing Officer shall exclude cases as per clarification in paragraph 7.1 above.
- Within 30 days i.e. by 2nd June 2022, the Assessing Officer shall provide to the assessee, in remaining cases, the information and material relied upon for issuance of extended reassessment notices.
- The assessee has two weeks to reply as to why a notice under section 148 of the Act should not be issued, on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year. The time period of two weeks shall be counted from the date of last communication of information and material by the Assessing Officer to the assessee.
- In view of the observation of Hon'ble Supreme Court that all the defences of the new law are available to the assessee, if assessee makes a request by making an application that more time be given to him to file reply to the show cause notice, then such a request shall be considered by the Assessing Officer on merit and time may be extended by the Assessing Officer as provided in clause (b) of new section 148A of the Act.
- After receiving the reply, the Assessing Officer shall decide on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under section 148 of the Act. The Assessing Officer is required to pass an order under clause (d) of section 148A of the Act to that effect, with the prior approval of the specified authority of the new law. This order is required to be passed within one



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month from the end of the month in which the reply is received by him from the assessee. In case no such reply is furnished by the assessee, then the order is required to be passed within one month from the end of the month in which time or extended time allowed to furnish a reply expires.

- If it is a fit case to issue a notice under section 148 of the Act, the Assessing Officer shall serve on the assessee a notice under section 148 after obtaining the approval of the specified authority under section 151 of the new law. The copy of the order passed under clause (d) of section 148A of the Act shall also be served with the notice u/s 148.
- If it is not a fit case to issue a notice under section 148 of the Act, the order passed under clause (d) of section 148A to that effect shall be served on the assessee.

17. In Paragraph No. 6.1 of the aforesaid instruction, it was specifically stated that reassessment notices would '**travel back in time**' to the original date on which such notices ought to have been issued, and that the new Section 149 of the Act must be applied at that point in time.

18. In Paragraph No. 2 of the aforesaid instruction, it was clarified as under:-

“2. These extended reassessment notices were issued by the Assessing Officers under the provision of section 148 of the Income Act, 1961 (hereinafter referred to as the “Act”) following the procedure prescribed under various sections pertaining to reassessment namely sections 147 to



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151, as they existed prior to their amendment by the Finance Act, 2021 (hereinafter referred to as "old law"). With effect from 1st April 2021, the old law has been substituted with new sections 147-151 (hereinafter referred to as the "new law")."

19. The decision of the Hon'ble Supreme Court in **Ashish Agarwal** case referred to *supra* as which was implemented by **CBDT** vide **Instruction No. 1/2022** dated **11.05.2022** was re-examined by a larger bench of the Hon'ble Supreme Court in **Union of India vs. Rajeev Bansal.**, 2024 SCC Online SC 2693. The Hon'ble Supreme Court vide its Order dated **03.10.2024** in **Rajeev Bansal** case referred to *supra*, framed the following issues for consideration:

"(a) Whether the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and notifications issued under it will also apply to reassessment notices issued after April 1, 2021; and

(b) Whether the reassessment notices issued under section 148 of the new regime between July and September 2022 are valid."

20. In Paragraph No.114, the Hon'ble Supreme Court in **Rajeev Bansal** case referred to *supra* has given its conclusion. Paragraph No.114 is reproduced below:-



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“114. In view of the above discussion, we conclude that:

(a) After April 1, 2021, the Income-tax Act has to be read along with the substituted provisions;

(b) Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 will continue to apply to the Income-tax Act after April 1, 2021 if any action or proceeding specified under the substituted provisions of the Income-tax Act falls for completion between March 20, 2020 and March 31, 2021;

(c) Section 3(1) of the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 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) Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 will extend the time limit for the grant of sanction by the authority specified under section 151. The test to determine whether Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 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 March 20, 2020 and March 31, 2021, then the specified authority under section 151(i) has extended time till June 30, 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 March 20, 2020 and March 31, 2021, then the specified authority under section 151(2) has extended time till March 31, 2021 to grant approval;

(f) The directions in Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] will extend to



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all the ninety thousand reassessment notices issued under the old regime during the period April 1, 2021 and June 30, 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 April 1, 2021 and June 30, 2021 till the supply of relevant information and material by the Assessing Officers to the assesseees in terms of the directions issued by this court in Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] , and the period of two weeks allowed to the assesseees 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 the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. All notices issued beyond the surviving period are time barred and liable to be set aside;

21. The four year limitation for issuance of Notice under Section 148 under the old regime was extended upto **30.06.2021** in view of the extension under Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA) for the **Assessment Year 2016-2017**. The limitation would have otherwise expired one year before on **31.03.2020** under the new regime under Section 149 of the Act with effect from **01.04.2021**.



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22. Before the Hon'ble Supreme Court in **Rajeev Bansal** case referred to *supra*, the Revenue itself conceded the position regarding limitation under both the old and the new regimes, in the light of the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 extensions, for Assessment Years 2013–14 to 2017–18.

23. In Paragraph No.19(2), the Revenue conceded itself to the following time lines in the following table:-

Table II:

Assessment year (1)	Within 3 years (2)	Expiry of limitation read with TOLA for (2) (3)	Within six years (4)	Expiry of limitation read with TOLA for (4) (5)
2013-2014	31-3-2017	TOLA not applicable	31-3-2020	30-6-2021
2014-2015	31-3-2018	TOLA not applicable	31-3-2021	30-6-2021
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

24. After examining various judgments and the amended provisions of the Act, the Hon'ble Supreme Court in **Rajeev Bansal** case referred to *supra* further observed as under:-



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“50. Another important change under section 149(1) (b) of the new regime is the increase in the monetary threshold from rupees one lakh to rupees fifty lakhs. The old regime prescribed a time limit of six years from the end of the relevant assessment year if the income chargeable to tax which escaped assessment was more than rupees one lakh. In comparison, the new regime increases the time limit to ten years if the escaped assessment amounts to more than rupees fifty lakhs. This change could be summarized thus:

Regime	Time limit	Income chargeable to tax which has escaped assessment
Old regime	Four years but not more than six years	Rupees one lakh or more
New regime	Three years but not more than ten years	Rupees fifty lakhs or more

25. The Hon'ble Supreme Court in **Rajeev Bansal** case referred to *supra*, thus held that the combined effect of the legal fiction and the directions issued by the Hon'ble Supreme Court in **Ashish Agarwal** case referred to *supra* was that the time begins to run for an assessee to respond to the show-cause notices, after the supply of the relevant material and information to the assessee.

26. In Paragraph No. 99, the Hon'ble Supreme Court in **Rajeev Bansal** case referred to *supra* observed as under:-

99. *In Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.]*, this court created a legal fiction



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by deeming the section 148 notices issued under the old regime as show-cause notices under section 148A(b) of the new regime. The purpose of the legal fiction was to enable the Revenue “to proceed further with the reassessment proceedings as per the substituted provisions” of the Income-tax Act. Accordingly, all the reassessment notices issued under the old regime were deemed to always have been show-cause notices issued under section 148A(b) of the new regime. The fiction replaced section 148 notices with section 148A(b) notices with effect from the date when the notices under section 148 of the old regime were issued between April 1, 2021 and June 30, 2021, as the case may be. This ensured the continuance of the reassessment process initiated by the Revenue from April 1, 2021 to June 30, 2021 under the old regime.

27. As far as, limitation is concerned, the Hon'ble Supreme Court in **Rajeev Bansal** case referred to *supra*, held that after accounting for all the exclusions, the Assessing Officer will have sixty-one days (days between May 1, 2021 and June 30, 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. It is further observed that if the assessee submits the response on June 18, 2022, the Assessing Officer will have sixty-one days from June 18, 2022 to issue a reassessment notice under Section 148 of the new regime.



28. This has been explained by the Hon'ble Supreme Court in **Rajeev**

Bansal case referred to *supra* in Paragraph Nos. 94 to 107, which are extracted

as under:-

“94. Before we proceed, we need to bear in mind three important periods:

(i) The period up to June 30, 2021 - this period is covered by the provisions of the Income-tax Act read with Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020;

(ii) The period from July 1, 2021 to May 3, 2022 - the period before the decision of this court in Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] ; and

(iii) The period after May 4, 2022 - the period after the decision of this court in Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] . This period is covered by the directions issued by this court in Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] and the provisions of the Income-tax Act read with Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020.

(a) Third proviso to section 149

95. *The third proviso to section 149 reads thus:*

“Provided also that for the purposes of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice issued under clause (b) of section 148A or the period during which the proceeding under section 148A is stayed by an order or injunction of any court, shall be excluded.”

96. *The third proviso excludes the following periods to calculate the period of limitation : (i) the time allowed to the*



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assessee under section 148A(b); and (ii) the period during which the proceedings under section 148A are “stayed by an order or injunction of any court”.

...

98. *A legal fiction is created for a definite purpose and it should be limited to the purpose for which it is enacted or applied. It is a well-established principle of interpretation that the courts must give full effect to a legal fiction by having due regard to the purpose for which the legal fiction is created. (State of Maharashtra v. Laljit Rajshi Shah [(2000) 2 SCC 699; 2000 SCC (Cri) 533.]) The consequences that follow the creation of the legal fiction “have got to be worked out to their logical extent”. (Bengal Immunity Comany Ltd. v. State of Bihar [(1955) 6 STC 446 (SC); 1955 SCC OnLine SC 2.]) The court has to assume all the facts and consequences that are incidental or inevitable corollaries to giving effect to the fiction. (Industrial Supplies Pvt. Ltd. v. Union of India [(1980) 4 SCC 341.]*

...

101. *Under section 148A(b), the Assessing Officer has to comply with two requirements : (i) issuance of a show-cause notice; and (ii) supply of all the relevant information which forms the basis of the show-cause notice. The supply of the relevant material and information allows the assessee to respond to the show-cause notice. The deemed notices were effectively incomplete because the other requirement of supplying the relevant material or information to the assesseees was not fulfilled. The second requirement could only have been fulfilled by the Revenue by an actual supply of the relevant material or information that formed the basis of the deemed notice.*

102. *While creating the legal fiction in Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] , this court was cognizant of the fact that the Assessing Officers were effectively inhibited from performing their responsibility under section 148A until the requirement of supply of relevant material and information to the assesseees*



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was fulfilled. This court lifted the inhibition by directing the Assessing Officers to supply the assesseees with the relevant material and information relied upon by the Revenue within thirty days from the date of the judgment. Thus, during the period between the issuance of the deemed notices and the date of judgment in *Union of India v. Ashish Agarwal* [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] , the Assessing Officers were deemed to have been prohibited from proceeding with the reassessment proceedings.

...

107. The third proviso to section 149 allows the exclusion of time allowed for the assesseees to respond to the show-cause notice under section 149A(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.** In *Union of India v. Ashish Agarwal* [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617], this court provided two weeks to the assesseees to reply to the show-cause notices. This period of two weeks is also liable to be excluded from the computation of limitation given the third proviso to section 149. Hence, the total time that is excluded for computation of limitation for the deemed notices is : (i) the time during which the show-cause notices were effectively stayed, that is, from the date of issuance of the deemed notice between April 1, 2021 and June 30, 2021 till the supply of relevant information or material by the Assessing Officers to the assesseees in terms of the directions in *Union of India v. Ashish Agarwal* [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] ; and (ii) two weeks allowed to the assesseees to respond to the show-cause notices.

(b) *Interplay of Union of India v. Ashish Agarwal* [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] with *Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020.*”



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29. In the above illustration, the Hon'ble Supreme Court in **Rajeev Bansal** case referred to *supra* observed the time limit for issuance of a notice under Section 148 of the new regime will end on August 18, 2022.

30. In Paragraph No.112, the Hon'ble Supreme Court in **Rajeev Bhansal** case referred to *supra* gave an illustration. Same is reproduced below:-

“112. Let us take the instance of a notice issued on May 1, 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 May 1, 2021. After accounting for all the exclusions, the Assessing Officer will have sixty-one days (days between May 1, 2021 and June 30, 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 June 18, 2022, the Assessing Officer will have sixty-one days from June 18, 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 August 18, 2022.”

31. The discussions leading to the above conclusion in **Rajeev Bhansal** case referred to *supra* are in Paragraph Nos.108 to 111 which are reproduced below:-



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“108. *The Income-tax Act read with Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 extended the time limit for issuing reassessment notices under section 148, which fell for completion from March 20, 2020 to March 31, 2021, till June 30, 2021. All the reassessment notices under challenge in the present appeals were issued from April 1, 2021 to June 30, 2021 under the old regime. Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] deemed these reassessment notices under the old regime as show-cause notices under the new regime with effect from the date of issuance of the reassessment notices. The effect of creating the legal fiction is that this court has to imagine as real all the consequences and incidents that will inevitably flow from the fiction. (East End Dwellings Co. Ltd. v. Finsbury Borough Council [[1952] A.C. 109. (Lord Asquith, in his concurring opinion, observed: “If you are bidden to treat an imaginary state of affairs as real, you must surely, unless prohibited from doing so, also imagine as real the consequences and incidents which, if the putative state of affairs had in fact existed, must inevitably have flowed from or accompanied it.”)]) Therefore, the logical effect of the creation of the legal fiction by Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] is that the time surviving under the Income-tax Act read with Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 will be available to the Revenue to complete the remaining proceedings in furtherance of the deemed notices, including issuance of reassessment notices under section 148 of the new regime. The surviving or balance time limit can be calculated by computing the number of days between the date of issuance of the deemed notice and June 30, 2021.*

109. *If this court had not created the legal fiction and the original reassessment notices were validly issued according to the provisions of the new regime, the notices under section 148 of the new regime would have to be issued within the time limits extended by Taxation and other Laws*



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(Relaxation and Amendment of Certain Provisions) Act, 2020. As a corollary, the reassessment notices to be issued in pursuance of the deemed notices must also be within the time limit surviving under the Income-tax Act read with Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. This construction gives full effect to the legal fiction created in Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] and enables both the assesseees and the Revenue to obtain the benefit of all consequences flowing from the fiction. (See State of A.P. v. A.P. Pensioners' Association [(2005) 13 SCC 161; 2006 SCC (L&S) 666. (This court observed that the “legal fiction undoubtedly is to be construed in such a manner so as to enable a person, for whose benefit such legal fiction has been created, to obtain all consequences flowing therefrom”.)])

110. *The effect of the creation of the legal fiction in Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] 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 assesseees in terms of the directions issued by this court in Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] has to be excluded from the computation of the period of limitation. Moreover, the period of two weeks granted to the assesseees 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 assesseees 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*



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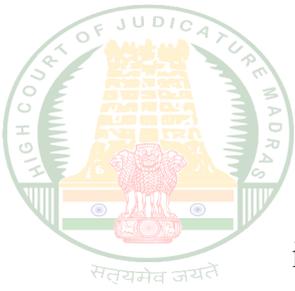
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material and the reply of the assessee; and (iii) issue a notice under section 148 if it was a fit case for reassessment. Once the clock started ticking, the Assessing Officer was required to complete these procedures within the surviving time limit. The surviving time limit, as prescribed under the Income-tax Act read with Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, was available to the Assessing Officers to issue the reassessment notices under section 148 of the new regime.”

32. Thus, if an assessee replies within the time stipulated in the above illustrations, the Assessing Officer has time up to sixty-one days from the date of reply. Therefore, the notices issued under Section 148 of the new regime issued in pursuance of the deemed notices ought to have been issued within the time limit surviving under the Act read with TOLA.

33. Thus, for the Assessment Years 2013-2014, 2014-2015, 2015-2016, 2016-2017 and 2017-2018, the Hon'ble Supreme Court in **Rajeev Bhansal** case referred to *supra* held to assume jurisdiction to issue notices under Section 148 under the new regime with respect to these Assessment Years, an Assessing Officer has to:

- i. issue the such notices within the period prescribed under Section 149(1) of the new regime read with Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020.



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- ii. obtain the previous approval of the authority specified under Section 151.

34. Paragraph No.113 of the decision of the Hon'ble Supreme Court in

Rajeev Bansal case referred to *supra* is reproduced below:-

“113. In Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] , this court allowed the assessee to avail of 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 Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020; 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 Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. A reassessment notice issued beyond the surviving time limit will be time-barred.”



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35. Thus, the **Rajeev Bansal** case referred to *supra* held reassessment notices issued under Section 148 of the new regime, in pursuance of the deemed notices, ought to be issued within the time limit surviving under the Income-tax Act read with Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. It was further held, a notice issued without complying with the above pre-conditions was invalid as it affects the jurisdiction of the Assessing Officer.

36. Dealing with a somewhat similar situation, this Court, in **Mrs.Thulasidass Prabavathi, Proprietrix, M/s.Venkateshwara Traders vs. Income Tax Officer**, *vide* order dated 24.01.2025 rendered in W.P.No.19010 of 2022, observed as under:-

"16. However, the first proviso to Section 149 prohibits issuance of a reassessment notice under the new regime if such notices have become timebarred under the old regime. Therefore, the last date for issuance of Notice under Section 148 of the Act would have expired on 30.06.2021, as per the third Proviso 149(1)(b) of the Act as in force with effect from 01.04.2021. The time during which stay was in operation or the time during which, the assessee took time to file the reply, the Notice issued under Section 148 (A)(b) of the Act stands expelled. In this case, the reply itself was filed by the petitioner only on 31.05.2022, pursuant to which the Impugned Order was passed on 30.06.2022 under Section 148(A)(d) of the Act and Notice under Section 148 of the Act was issued. Though the limitation for issuance of a Notice



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under Section 148 of the Act under the old regime would have expired on 31.03.2024, a reading of conclusion in Paragraph 114 of the decision of the Hon'ble Supreme Court in Union of India Vs. Rajeev Bansal, 2024 SCC OnLine SC 2693 however indicates that the Impugned Notice dated 30.06.2022 has to be treated as having been issued beyond the limitation period. Relevant paragraph of the aforesaid Judgment reads as under-

**(Deliberately left black as it has been reproduced above)*

17. Dealing with almost an identical situation pursuant to the decision of the Hon'ble Supreme Court in Union of India Vs. Rajeev Bansal, 2024 SCC OnLine SC 2693, the Delhi High Court quashed the notice dated 31.03.2021 issued to the assessee under Section 148 of the Act and the proceedings. Since the law laid down by the Hon'ble Supreme Court in Union of India Vs. Rajeev Bansal, 2024 SCC OnLine SC 2693 is a settled law, it is binding on this Court. I am therefore unable to take a contra view in the light of the aforesaid decision of the Hon'ble Supreme Court in Union of India Vs. Rajeev Bansal, 2024 SCC OnLine SC 2693.

18. Therefore, this Writ Petition deserves to be allowed and is accordingly allowed. No costs. Connected miscellaneous petitions are closed."

37. Thus, the Judgments of the High Courts rendered in **Rajeev Bansal Vs. Union of India** (2023) 453 ITR 153 (All); 2023 SCC OnLine All 87, (Writ Tax No.1086 of 2022 (Allahabad High Court)), **Keenara Industries Pvt. Ltd. Vs. ITO** (2023) 453 ITR 51 (Guj); 2023 SCC OnLine Guj 4573, R/Special



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Civil Application No. 17321 of 2022 (High Court of Gujarat), **J.M.Financial**

and Investment Consultancy Services Pvt. Ltd. Vs. Asst. CIT (2023) 451

ITR 205 (Bom); 2022 SCC OnLine Bom 10269, W.P.No.1050 of 2022 (High

Court of Judicature at Bombay), **Siemens Financial Services Pvt. Ltd. Vs. Dy.**

CIT (2023) 457 ITR 647 (Bom); 2023 SCC OnLine Bom 2822, High Court of

Judicature at Bombay, **Geeta Agarwal Vs. ITO, (2023) 456 ITR 103 (Raj);**

2022 SCC OnLine Raj 3489, D.B.Civil Writ Petition No.14794 of 2022 (High

Court of Judicature at Rajasthan), **Ambika Iron and Steel Pvt. Ltd. Vs. Pr.**

CIT (2023) 452 ITR 285 (Orissa); 2022 SCC OnLine Ori 4162, W.P.(C)No.

20919 of 2021 (High Court of Orissa), **Twylight Infrastructure Pvt. Ltd. Vs.**

ITO (2024) 463 ITR 702 (Delhi); 2024 SCC OnLine Del 330., Ganesh Dass

Khanna Vs. ITO (2024) 460 ITR 546 (Delhi); (2023) 6 HCC (Del) 516 and

other judgments of the High Courts which relied on these judgments are set

aside to the extent of the observations made in the Judgment in **Rajeev Bansal**

case referred to *supra*.

BRIEF SUBMISSIONS MADE ON BEHALF OF THE PETITIONERS:-

38. The learned counsel for the Petitioner submits that irrespective of whether the Petitioners had sought an extension of time, the issue is rendered



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irrelevant, as the limitation period had already expired on 30.06.2022, in view of the decision of the Hon'ble Supreme Court in **Rajeev Bansal** case referred to supra.

39. It is submitted by the learned counsel for the Petitioner in respect of W.P.No.30938 of 2024 pertaining to the Assessment Year 2016-2017 that the alleged income that has escaped assessment is only Rs.4,00,000/- that as per the amended Section 149 of the Act, the issuance of Notice under Section 148 of the Act is not valid and without authority of law.

40. It is submitted that under the new regime, the competent authority for approval of sanction for issuance of Notice under Section 148 of the Act for the period from 01.04.2021, the relevant authority is the Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant Assessment Year. Therefore, it is submitted that prior approval granted by the Principal Commissioner is grossly invalid and illegal and clearly amounts to lack of jurisdiction.



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41. It is further submitted that Notice under Section 148 of the Act issued by the 1st Respondent under the new regime was beyond the period of limitation in view of surviving period concept propounded by the Hon'ble Supreme Court in **Rajeev Bansal** case referred to supra.

42. Therefore, it is submitted that the Notices are time barred and liable to be quashed. In this connection, the learned counsel for the Petitioner also relied on the decision of this Court in **Thulasidass Prabavati Vs. ITO**.

43. It is further submitted by the learned counsel for the Petitioner that once the initial Notice itself is without jurisdiction then all the consequential Notices and Orders flowing from it are all illegal and invalid. In this connection, the learned counsel for the Petitioner relied on the decision of the Hon'ble Supreme Court in **Rajeev Bansal** case referred to supra.

44. In support of his contentions, the Petitioner relied on the following decisions of the Hon'ble Supreme Court and High Courts:

- i. **Chhotobhai Jethabhai Patel Vs. Industrial Court, Maharashtra., (1972) SCC 46 (16).**



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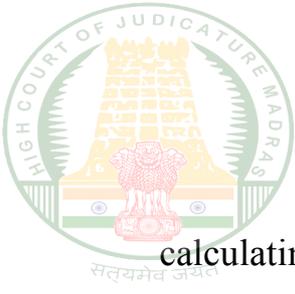
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- ii. **Superintendent of Taxes Vs. Onkarmal Nathmal Trust.,** (1976) 1 SCC 766 (28).
- iii. **Dwarka Prasad Agarwal Vs. B.D. Agarwal.,** (2003) 6 SCC 230 (37)
- iv. **Prakash Pandurang Patil Vs. The Income Tax Officer Ward 5, Panvel & others.,** W.P. No.10749 of 2024
- v. **Siemens Financial Services Private Limited Vs. DCIT.,** W.P. No. 1646 of 2023.
- vi. **Hexaware Technologies Ltd Vs. Assistant Commissioner of Income-tax, Circle 15(1)(2),** [2024] 162 taxmann.com 225 (Bombay);

BRIEF SUBMISSIONS MADE ON BEHALF OF THE RESPONDENTS:-

45. It is submitted by the learned counsel for the Respondents that the Orders under Section 148A(d) and Notices under Section 148 of the Act under the new regime were issued by the Department well within the time limit as prescribed by the Act and in accordance with the decision of the Hon'ble Supreme Court in **Ashish Agarwal** case referred to supra and **Rajeev Bansal** case referred to supra.

46. It is submitted by the learned counsel for the Respondents that the *Proviso* to Section 151 of the Act expressly stipulates that for the purpose of



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calculating three year limitation period for obtaining sanction, the duration of stay and the time granted to the assessee for submitting a reply must be excluded. It is stated that the sanction was also duly obtained from the Specified Authority as required under Section 151 of the Act.

47. It is further submitted by the learned counsel for the Respondents that the Faceless Assessing Officer, as well as the Jurisdictional Officer, will have concurrent jurisdiction as held by the Hon'ble Supreme in plethora of Judgments.

48. It is submitted by the learned counsel for the Respondents that the discrepancies in DIN is not sufficient to invalidate the assessment, as though the first Order issued under Section 148A(d) of the Act was issued without proper digital signature, the second order issued under Section 148A(d) of the Act was issued with proper digital signature.

49. It is submitted by the learned counsel for the Respondents that the Petitioner has not availed the appeal remedy under the Act and that therefore, these Writ Petitions are liable to be dismissed on that ground as well. He relies



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on the decision of the Hon'ble Supreme Court in **CIT Vs. Chhabil Das**

Agarwal., (2013) 357 ITR 357.

50. The learned counsel for Respondents relied on the following decisions of the Hon'ble Supreme Court and High Courts:-

- i. **Union of India Vs. Rajeev Bansal.**, (2024) 469 ITR 46 SC
- ii. **Zile Singh Vs. State of Haryana.**, (2004) 8 SCC 1.
- iii. **Allied Motors Vs. Commissioner of Income Tax Delhi.**, (1997) 3 SCC 472
- iv. **Commissioner of Income Tax Vs. Gold Coin Health Food Private Limited.**, (2008) 9 SCC 622
- v. **CIT Vs. Chhabil Das Agarwal.**, (2013) 357 ITR 357.
- vi. **T.K.S. Builders Pvt. Ltd., Vs. ITO Ward 25(3) New Delhi.**, WPO No. 1968 of 2023
- vii. **Mark Studio India Private Limited Vs. Income Tax Officers, Non-Corporate Ward 10(6).**, W.P. No. 25223 of 2024
- viii. **Sanghi Steel Udyog Private Limited Vs. Union of India.**, WPO No. 1549 of 2023
- ix. **Dhiraj Lakhotia Vs. Union of India.**, WP No. 1458 of 2024

DISCUSSION:-

51. The dispute in these Writ Petitions pertains to the **Assessment Years 2016-2017 to 2018-2019**. As mentioned above, the entire ecosystem for the



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assessment/reassessment under the Act was altered with effect from **01.04.2021**

in view of the amendments made to the provisions of the Act.

52. Prior to the above amendments, a Notice under Section 148 of the Act could be issued in the circumstances specified therein, which had to ultimately culminate in an Assessment/Reassessment Order under Section 147 of the Act.

53. Under the old regime, an assessee could file a Return of Income after issuance of Section 148 of the Act and thereafter seek reasons for reopening of the assessment in terms of the decision of the Hon'ble Supreme Court in **GKN Driveshafts (India) Ltd Vs. ITO., (2003) 1 SCC 73.**

54. Upon receipt of such reasons, the assessee could submit a reply, which would culminate in a Speaking Order in terms of the decision of the Hon'ble Supreme Court in the above case. Such Speaking Orders were/are amenable to challenge under Article 226 of the Constitution of India.



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55. This procedure was thus codified with few modifications by way of amendments to Sections 148, 149 and 151 of the Act and by the insertion of Sections 148A and 151A of the Act with effect from **01.04.2021**.

56. Under the new regime with effect from 01.04.2021, a notice under Section 148A(b) of the Act with effect from 01.04.2021 (presently, Section 148A(2) of the Act with effect from 01.09.2024) has to be issued. The said notice has to culminate in an order under Section 148A(d) of the Act (presently under Section 148A(3) of the Act) has to be issued. Thereafter, a notice under Section 148 of the Act can be issued, if indeed a case is made out for issuance of such a notice under Section 148 of the Act under the new regime.

57. Retro fitting of the new tax regime as in force with effect from **01.04.2021** to the proceedings which were initiated under the old regime is not free from doubt despite a detailed order of the Hon'ble Supreme Court in **Rajeev Bansal** case referred to *supra*.

58. It was for the Parliament to amend the law as there was a large scale ambiguity in the implementation of the new regime, as in force with effect from



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01.04.2021, particularly, when there is an empheral view to entertain a reason that the limitation may or may not have expired under the new regime to rescue of some of the past assessment years.

59. Although, the Hon'ble Supreme has passed a detailed order and concluded as above in **Rajeev Bansal** case referred to *supra*, the issue is still not free from doubt unless the said decision is read very carefully and applied. It is has to be remembered that the Hon'ble Supreme Court had earlier passed its decision on **04.05.2022** in **Ashish Agarwal** case referred to *supra* in exercise of its power under Article 142 of the Constitution of India.

60. To understand the conclusion in Paragraph No. 114 of **Rajeev Bansal** case referred to *supra* of the Honb'ble Supreme Court, one has to first read the conclusion in Paragraph No. 114(f), wherein it was held that the directions in **Ashish Agarwal** case referred to *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. Ninety Thousand reassessment notices would include the notices issued to the respective Petitioners in these Writ Petitions as well.



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61. Paragraph No. 114(f) of **Rajeev Bansal** case referred to *supra*, as extracted above also is read along with Paragraph No. 28.3 of **Ashish Agarwal** case referred to *supra*, wherein it was held that even otherwise as observed hereinabove holding any enquiry with the **prior approval** of specified authority is **not mandatory** but it is for the assessing officers concerned to hold any enquiry, if required. Thereafter, no approval is required to issue Notice under Section 148A(b) of the Act as in force from 01.04.2021.

62. Thus, holding enquiry with the prior approval of specified authority is not mandatory. However, the Hon'ble Supreme Court in **Ashish Agarwal** case referred to *supra* gave discretion by holding that it is for the assessing officers concerned to hold any enquiry, if required.

63. The Hon'ble Supreme Court in **Rajeev Bansal** case referred to *supra* appears to have misread its decision of **Ashish Agarwal** case referred to *supra*. It has however observed that prior approval must be obtained from the appropriate authorities specified under Section 151 of the new regime. In **Rajeev Bansal** referred to *supra*, the Court has summarised Section 151 of the Act under the new regime as follows:-



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(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.*

64. However, in Paragraph No. 76, the Hon'ble Supreme Court in **Rajeev Bansal** case referred to *supra* has observed that 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.

65. It was further held that Section 151 of the Act under 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.



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66. It was further observed that Section 151(ii) of the Act under the new regime prescribes a higher level of authority if more than three years have elapsed from the end of the relevant assessment year. It was therefore held that 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.

67. In this connection, the Hon'ble Supreme Court in **Rajeev Bansal** case referred to *supra* further observed as follows:-

*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.*



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78. For example, the three-year time limit for the assessment year 2017-2018 falls for completion on March 31, 2021. It falls during the time period of March 20, 2020 and March 31, 2021, contemplated under section 3(1) of the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. Resultantly, the authority specified under section 151(i) of the new regime can grant sanction till June 30, 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 prove 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.
- (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



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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.

81. This court in Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] directed the Assessing Officers to “pass orders in terms of section 148A(d) in respect of each of the assessee 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 148A”. 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 the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, where applicable.”

68. Thus, the proceedings up to the stage of issuance of an order under Section 148A(d) of the Act need not comply with the requirements of Section 151 of the Act under the new regime with effect from 01.04.2021, as has been clarified in Paragraph Nos. 75 and 76 of **Rajeev Bansal** case referred to *supra* by the Hon'ble Supreme Court, which have been extracted above. Consequently, the new period of limitation of 3 years and 10 years under



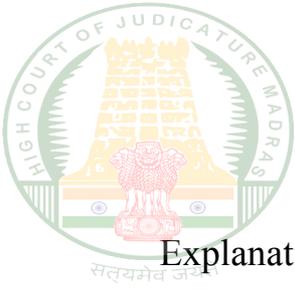
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Section 149 of the Act would kick in for issuance of a notice under Section 148 of the Act after an Order is passed under Section 148A(d) of the Act.

69. For initiating the proceedings under Section 148 with the issuance of notice under Section 148A(b) of the Act, the Assessing Officer was merely required to conduct an enquiry, if required, with prior approval of the specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment.

70. This enquiry at the stage of issuance of notice under Section 148A(b) of the Act is thus not mandatory as per the decision of the Hon'ble Supreme Court in **Ashish Agarwal** case referred to *supra* which view has been affirmed by the Hon'ble Supreme Court in **Rajeev Bansal** case referred to *supra*. However, before proceeding to issue a Notice under Section 148 of the Act after order under Section 148A(d) is passed, the Assessing Officer has to necessarily obtain prior approval of the specified authority under Section 151 of the Act as amended with effect from 01.04.2021.

71. The expression “**specified authority**” for the purpose of Section 148 of the Act as in force with effect from 01.04.2021 has been defined in



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Explanation 3 to Section 148 of the Act to mean as the “specified authority”

referred in Section 151 of the Act.

72. Section 151 of the Act is reproduced below:-

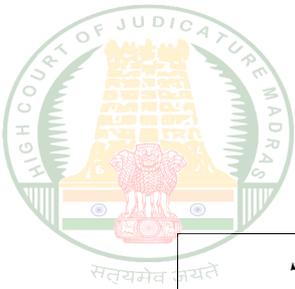
“151. Specified authority for the purposes of section 148 and section 148A shall be, ---

(i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;

(ii) Principal Commissioner or Principal Director General or Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year;

73. For the purpose of issuing Notice under Section 148 of the Act under the new regime and for the sake of understanding the specified authority, I have simplified the name of the specified authority as under:-

Section 151	Specified authority for Section 148 and 148A of the Act	Authority who sanctioned the order in the present batch of cases
Within three years	(i) Principal Commissioner/or (ii) Principal Director/or (iii) Commissioner/or (iv) Director	



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Section 151	Specified authority for Section 148 and 148A of the Act	Authority who sanctioned the order in the present batch of cases
After three years	(i)Principal Commissioner/or Chief (ii)Principal Director General/or (iii)Chief Commissioner/or (iv) Director General	Principal Commissioner

74. Thus, in the case of an Assessee whose income has escaped assessment, where the Assessment Year would have fallen within the four years limitation under the old regime cannot be proceeded further unless an approval is obtained from the specified authority under Section 151(ii) of the Act. However, as per the proviso to Section 151 of the Act the period of three years for the purposes of clause (i) shall be computed after taking account the period of limitation as excluded by the third or fourth or fifth provisos or extended by the sixth proviso to sub-section (1) of Section 149 of the Act inserted vide Finance Act, 2023.

75. Though, the limitation for issuance of a notice under Section 148 of the Act under the old regime for the Assessment Year 2016-2017, would have expired on **31.03.2021**. In view of the extension of time under Section 3(1) of



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the Taxation and Other Laws [Relaxation and Amendment of Certain Provisions] Act, 2021, the limitation for issuance of such a notice under the old regime stood extended till **30.06.2021**. This is recognised by the Hon'ble Supreme Court in **Rajeev Bansal** case referred to *supra*.

76. The Hon'ble Supreme Court in **Ashish Agarwal** case referred to *supra*, in Paragraph 28.1 had further held that the notice issued under the old regime shall be construed/treated as a show-cause notice under Section 148A(b) of the Income Tax Act, 1961 with effect from 01.04.2021. In Paragraph No.28.3, it was thus observed as follows:-

*“28.3. Even otherwise as observed hereinabove holding any enquiry with the **prior approval** of specified authority is **not mandatory** but it is for the assessing officers concerned to hold any enquiry, if required.”*

77. Thus, notices issued between **April, 2021** and **30 June 2021** under the old regime are deemed to have been issued under Section 148A(b) of the Act as amended with effect from 01.04.2021.

78. The Notices which were issued under Section 148 of the Act under the old regime as in force till **31.03.2021** are deemed to be notices issued under



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Section 148A(b) under the new regime in terms of the decision of the Hon'ble

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Supreme Court in **Union of India Vs. Ashish Agarwal** and in **Rajeev Bansal**

case referred to *supra*.

79. In fact, following the instruction of the CBDT, fresh notices were also issued. The notices which were issued during this period between **April, 2021** and **30 June 2021** were deemed to be stayed till **04.05.2022** and stayed for a further period of two weeks till the supply of relevant information and material by the Assessing Officer.

80. While, computing limitation for issuance of Notice under Section 148 of the Act as amended with effect from 01.04.2021 under the new regime, the 3rd *proviso* to Section 149 of the Act is relevant, which states that for the purposes of computing the period of limitation, the time or extended time allowed to the assessee, as per show-cause notice issued under clause (b) of section 148A of the Act or the period during which the proceeding under Section 148A of the Act is stayed by an order or injunction of any court shall be excluded.



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81. Section 149 of the Act which prescribes the limitation for issuance of a notice under Section 148 of the Act, as in force under the old regime till **31.03.2021** and as in force with effect from **01.04.2021**, during the period in dispute are reproduced below:-

Section 149 of IT Act, till 31.03.2021	Section 149 of IT Act, with effect from 01.04.2021
<p>149. Time limit for notice.—</p> <p>(1) No notice under section 148 shall be issued for the relevant assessment year,—</p> <p>(a) if four years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b) or clause (c);</p> <p>(b) if four years, but not more than six years, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to one lakh rupees or more for that year;</p> <p>(c) if four years, but not more than sixteen years, have elapsed from the end of the relevant assessment year unless the income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment.</p>	<p>149. Time limit for notice.</p> <p>(1) No notice under section 148 shall be issued for the relevant assessment year,—</p> <p>(a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);</p> <p>(b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year:</p> <p>Provided that no notice under section 148 shall be issued at any time in a case for the relevant assessment</p>



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Explanation.— In determining income chargeable to tax which has escaped assessment for the purposes of this sub-section, the provisions of Explanation 2 of section 147 shall apply as they apply for the purposes of that section.

(2) The provisions of sub-section (1) as to the issue of notice shall be subject to the provisions of section 151.

(3) If the person on whom a notice under section 148 is to be served is a person treated as the agent of a non-resident under section 163 and the assessment, reassessment or recomputation to be made in pursuance of the notice is to be made on him as the agent of such non-resident, the notice shall not be issued after the expiry of a period of six years from the end of the relevant assessment year.

Explanation.— For the removal of doubts, it is hereby clarified that the provisions of sub-sections (1) and (3), as amended by the Finance Act, 2012, shall also be applicable for any assessment year beginning on or before the 1st day of April, 2012.

year beginning on or before 1st day of April, 2021, if such notice could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of this section, as they stood immediately before the commencement of the Finance Act, 2021:

Provided further that the provisions of this sub-section shall not apply in a case, where a notice under section 153A, or section 153C read with section 153A, is required to be issued in relation to a search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, on or before the 31st day of March, 2021:

Provided also that for the purposes of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice issued under clause (b) of section 148A or the period during which the proceeding under section 148A is stayed by an order or injunction of any court, shall be excluded:

Provided also that where immediately after the exclusion of the period referred to in the immediately preceding proviso, the period of limitation available to the Assessing Officer for passing an order under clause (d) of section 148A is less than



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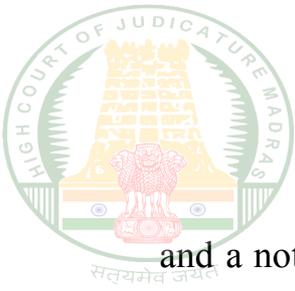
seven days, such remaining period shall be extended to seven days and the period of limitation under this sub-section shall be deemed to be extended accordingly.

Explanation.— For the purposes of clause (b) of this sub-section, "asset" shall include immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account.

(2) The provisions of sub-section (1) as to the issue of notice shall be subject to the provisions of section 151.

82. Further, under the 4th *Proviso* to Section 149 of the Act the period of limitation available to an Assessing Officer to pass an order under clause (d) of section 148A of the Act immediately after the exclusion of the period referred to in the 3rd proviso, is less than seven days, such remaining period shall be extended to seven days and the period of limitation under this sub-section shall be deemed to be extended accordingly.

83. For computing the period of limitation under Section 149 of the Act for issuance of notice under Section 148A(b), an order under Section 148A(d)



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and a notice under Section 148, the amount of tax that has escaped assessment

would be relevant. The following table discloses the position:-

Table III:-

Assessment Year	New tax regime with effect from 01.04.2021		Tamil Selvi	MJR Hospitality and Services Apartments
	3 years	10 years	Taxable Income	Taxable Income
2016-2017	31.03.2020	31.03.2027	Rs.6,69,960/-	Rs.1,18,50,590/-
2017-2018	31.03.2021	31.03.2028	Rs.1,66,66,670/-	Rs.2,65,68,000/-
2018-2019	31.03.2022	31.03.2029	Rs.75,88,786/-	Rs.1,79,52,778/-

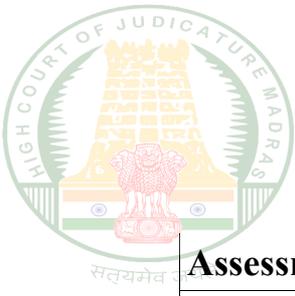
84. Thus, the notices issued under Section 148 of the old regime on the dates specified in Tables above are to be held to be valid and in time in terms of the decision of the Hon'ble Supreme Court in **Ashish Agarwal** case referred to *supra*.

85. Relevant dates and events that are important for the present batch of Writ Petitions are as follows:-

Table IV:-

A.

D. Tamil Selvi			
W.P. No.	30938 of 2024	30940 of 2024	30939 of 2024



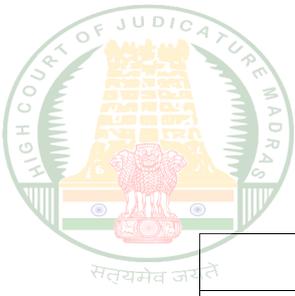
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Assessment Year	2016-2017	2017-2018	2018-2019
Notice u/S 148	29.06.2021	31.03.2021	---
Notice u/S 148A(b)	24.05.2022	24.03.2022	16.03.2022
Reply given by the Petitioner	06.06.2022 vide Lt. 01.06.2022	26.03.2022	24.03.2022
Order u/S 148A(d)	26.07.2022	-	07.04.2022
Notice u/S 148	26.07.2022	-	07.04.2022
Date of Assessment Order	26.05.2023	29.03.2022*	032122
Date of the Penalty Notice	20.12.2023	25.03.2022/ 29.03.2022*	21.03.2024
3 year limitation	31.03.2020	31.03.2021	31.03.2022
4 year limitation	31.03.2021	31.03.2022	31.03.2023
6 year limitation	31.03.2023	31.03.2024	31.03.2025
10 year limitation	31.03.2027	31.03.2028	31.03.2029

* Order passed before the Hon'ble Supreme Court passed its Order on 04.05.2022 in *Union of India Vs. Ashish Agarwal* referred to supra

B.

MJR Hospitality and Services Apartments			
W.P.No.	5328 of 2025	5329 of 2025	5330 of 2025
Assessment Year	2016-2017	2017-2018	2018-2019
Notice u/S 148	28.06.2021	28.06.2021	28.06.2021
Notice u/S 148A(b)	31.05.2022*	01.06.2022*	01.06.2022*
Reply given by the Petitioner	16.06.2022	16.06.2022	16.06.2022
Order u/S 148A(d)	28.06.2022	28.06.2022	28.06.2022



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MJR Hospitality and Services Apartments			
Notice u/S 148	29.07.2022	29.07.2022	29.07.2022
Date of Assessment Order	29.07.2022	29.07.2022	29.07.2022
Date of the Penalty Notice	31.03.2023	31.03.2023	31.03.2023
3 year limitation	31.03.2023	31.03.2023	31.03.2023
4 year limitation	31.03.2020	31.03.2021	31.03.2022
6 year limitation	31.03.2021	31.03.2022	31.03.2023
10 year limitation	31.03.2023	31.03.2024	31.03.2025
Assessment Year	31.03.2027	31.03.2028	31.03.2029

** Notices issued under Section 148A(b) after the decision of the Hon'ble Supreme Court in Union of India Vs. Ashish Agarwal referred to supra on 04.05.2022*

86. A reading of the order under Section 148A(d) and the notice under Section 148 in the respective cases except **W.P.(MD). No. 30940 of 2024 – D. Tamil Selvi**, indicates that they have been issued with the concurrence of the Principal Commissioner of Income Tax.

87. It is noticed that for the **Assessment Year 2016-2017**, the income that had escaped assessment is only **Rs.4,00,000/-** in the case of the Petitioner in **W.P.No.30938 of 2024**.



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88. As far as the **Assessment Year 2017-2018** which is subject matter of **W.P.No.30940 of 2024** is concerned, the amount of tax that had escaped assessment is **Rs.1,64,53,850/-**. Thus, the case would fall both under 3 years limitation and 6 years limitation for issuance of notice under Section 148 of the Act. It is noticed that approval had been obtained only from the Principal Commissioner of Income Tax under Section 151(1) of the Act.

89. Since more than 3 years have lapsed and the escaped assessment exceeds Rs.50 lakhs except for the Assessment Year 2016-2017 impugned in **W.P.No. 30938 of 2024 – D. Tamil Selvi**, the approval of the Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General of Income Tax was required in terms of Section 151(ii) of the Act. However, in the present cases, sanction has been obtained only from the Principal Commissioner of Income Tax.

90. Consequently, the Assessment Order passed on **26.05.2023** and the Penalty Notice dated **20.12.2023** impugned in W.P.No.30938 of 2024 are to be held without jurisdiction. This aspect ought to have been considered by the



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Respondents while passing the impugned Assessment Order dated **26.05.2023**

for the **Assessment Year 2016-2017**.

91. As far as the other two **Assessment Years** namely **2017-2018** and **2018-2019** which are subject matter of **W.P.No.30940 of 2024** and **W.P.No. 30939 of 2024** respectively in the cases filed by the Petitioner **D.Tamilselvi** are concerned, the Notices under Section 148A(b) of the Act were issued on 24.03.2022 and 16.03.2022 respectively.

92. They were issued prior to the decision of the Hon'ble Supreme Court in **Ashish Agarwal** case referred to *supra*. In fact, the impugned Assessment Orders have also been passed prior to the Order of the Hon'ble Supreme Court in **Ashish Agarwal** case referred to *supra* on 04.05.2022.

93. Applying the ratio of the Hon'ble Supreme Court in both **Ashish Agarwal** case referred to *supra* and **Rajeev Bansal** case referred to *supra*, the last date for issuance of notice under Section 148 of the Act would be in terms of Paragraph No.114(g) of the **Rajeev Bansal** case referred to *supra*.



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94. Since the notice has been issued under Section 148 of the Act immediately after the order was passed by the Hon'ble Supreme Court in **Rajeev Bansal** case referred to *supra* within a period of 3 years after excluding the period in terms of Paragraph No.114(g) of **Rajeev Bansal** case referred to *supra*, it has to be held that notices are in time.

95. However, there are no clear discussion emanating in the impugned Assessment Orders as they have been passed prior to the decisions of the Hon'ble Supreme Court in **Ashish Agarwal** case referred to *supra* and **Rajeev Bansal** case referred to *supra*. Therefore, rest of the impugned Assessment Orders are also liable to be set aside and be remitted back to the Respondents to pass a fresh order.

96. In so far as Writ Petitions in **W.P.Nos.5328, 5329 and 5330 of 2025** of **MJR Hospitality and Services Apartments** is concerned, the Petitioner sought time on **15.06.2022**. Time was granted on **16.06.2022** till **28.06.2022** to respond to the Notice. However, no reply was given by the Petitioner.

97. Three years from the end of the Assessment Year 2016-2017, 2017-2018 and 2018-2019 to issue Section 148 Notice under the new regime



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had already expired on **31.03.2020**, **31.03.2021** and **31.03.2022**. However,

Section 148 Notices were issued for these Assessment Years only on **29.07.2022** with approval from Principal Commissioner instead of approval from the Principal Chief Commissioner in terms of amended provisions as in force for the period in dispute were in time.

98. However, it would not vitiate the proceedings. The Assessing Officer, before issuing notice under Section 148 of the Act, ought to have obtained sanction from Principal Chief Commissioner of Income Tax or the Principal Director General, or in their absence, the Chief Commissioner or Director General of Income Tax under Section 151(ii) of the Act as in force with effect from 01.04.2022.

99. Since sanction was obtained only from Principal Commissioner of Income Tax, and since more than 3 years have lapsed, the Notices issued under Section 148 of the Act and orders passed thereafter and the notices issued under Section 271(1)(c) are liable to be set aside and cases are remitted back to the Respondent to issue a fresh notice under Section 148 of the Act after obtaining sanction from Principal Chief Commissioner of Income Tax or the Principal Director General as is contemplated under Section 151 of the Act.



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WEB COPY 100. In the light of the observation, the impugned assessment orders and the penalty notices are set aside and the cases are remitted back to the Respondents to re-do the exercise after the stage of issuance of Order under Section 148A(d) for issuing Notice under Section 148 of the Act under the new regime with effect from 01.04.2021, after obtaining necessary approval from the Specified Authority as is contemplated under Section 151(ii) of the Act read with Section 149(1)(b) of the Act.

101. In case, such an approval is granted by the Specified Authority under Section 151(ii) of the Act, the proceedings shall thereafter be continued. This exercise shall be completed as expeditiously as possible within a period of 6 months from the date of receipt of the copy of this Order.

102. These Writ Petitions are disposed of with the above observations. No costs. Connected Miscellaneous Petitions are closed.

15.09.2025

Neutral Citation : Yes / No

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To

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- 1.The Income Tax Officer,
Ward 3, Virudhunagar,
Madura Coats Compound,
Railway Feeder Road,
Virudhunagar – 626 001.
- 2.National Faceless Assessment Centre,
Assessment Unit,
Ministry of Finance,
Delhi – 110 003.
- 3.The Income Tax Officer,
Ward 1, Dindigul,
Dindigul – Palani Bye Pass Road,
Kottapatti Post,
Dindigul – 624 002.
- 4.The Assistant Commissioner of Income Tax,
Central Circle,
Madurai, Ground Floor,
Income Tax Office – Madurai ME,
Income Tax Staff Quarters Complex,
Kulamangalam Main Road,
Meenambalpuram,
Madurai – 625 002.



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W.P.(MD) Nos.30938 of 2024 etc., batch

C.SARAVANAN, J.

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Pre-Delivery Common Order in
W.P.(MD)Nos.30938, 30939, 30940 of 2024
and
W.P.(MD)Nos.5328, 5329 and 5330 of 2025

15.09.2025