
(2025) 11 ITAT CK 1852

In the Income Tax Appellate Tribunal, Delhi A Bench

Case No : Income Tax Appeal No. 5942 /Del/ Of 2024

Aarti Bansal

APPELLANT

Vs

Income Tax Officer

RESPONDENT

Date of Decision : 03-11-2025

Acts Referred:

Income Tax Act, 1961 — Section 3, 69C, 139(1), 143(2), 147, 148, 148A, 148A(b), 148A(d), 149, 149(1), 149(c), 149(d), 151

Citation : (2025) 11 ITAT CK 1852

Hon'ble Judges : Challa Nagendra Prasad, Member (J); Avdhesh Kumar Mishra, Member (A)

Bench : Division Bench

Advocate : Suresh Gupta, Ajay Kumar Arora

Final Decision : Partly Allowed

Judgement

Challa Nagendra Prasad, Member (J)

1. This appeal is filed by the Assessee against the order of the Ld. CIT(Appeals)-NFAC, dated 15.10.2024 for the AY 2014-15. Assessee has raised the following grounds in her appeal: -

1. "On facts and circumstances of the case, the reassessment proceedings-initiated u/s 147 of IT Act by issue of notice dated 22.07.2022 u/s 148 of IT Act is barred by limitation and therefore, the reassessment proceedings and consequent reassessment order are void-ab-initio.

2. On the facts and circumstances of the case and also in law, the assessment proceedings and the assessment order both are bad in law and need to be quashed as no notice u/s 143(2) of IT Act was issued by the AO before completion of assessment proceedings against the return of income filed in response to notice u/s 148 of IT Act.

3. On facts and circumstances of the case, the reassessment proceedings have been initiated u/s 147/148/148A of IT Act without making compliance of

provisions of sec 149(1) of IT Act and therefore, the reassessment proceedings and consequent reassessment order are needs to be quashed.

4. The impugned assessment is invalid and without jurisdiction as the said assessment has been initiated and completed without complying with legal requirements of the provisions of section 147/148/148A/151 of the Income Tax Act, therefore such assessment is void ab initio and liable to be quashed.

5. The Ld. AO has erred both in law and circumstances of the case in initiating action u/s 147/148A of IT Act ignoring the fact that the proceedings have been initiated without application of independent mind on the material, if any, available. In view of the above defects in the compliances the resultant reassessment proceedings are required to be set aside.

6. The Ld. AO has erred both in law and circumstances of the case in initiating action u/s 147/148/148A of IT Act ignoring the fact that the proceedings have been initiated by mechanical approval accorded by the Pr CCIT, Delhi and such approval vitiates the assessment.

7. On facts and circumstances of the case, the Ld AU has erred in making addition of Rs.59,64,116/- u/s 69C of IT Act ignoring the fact that the above provision has no application when the requirement of said section is not complied with.

8. The appellant craves leave to add, delete, modify / amend the above grounds of appeal with the permission of the Hon'ble appellate authority."

2. The Ld. Counsel for the assessee, at the outset, submitted that the reassessment proceedings are barred by limitation as the notice u/s 148 of the Act was issued under un-amended act to the assessee on 22.06.2021 (PB 6-7). However, the above notice was uploaded on e-portal on 30.06.2021 but was never served upon the appellant as evident from screenshot at pages 3 to 5 and 6. Ld. Counsel submitted that section 148 of the Act has been substituted by Finance Act, 2021 w.e.f. 01.04.2021 wherein notice u/s 148 of the Act as per the old provisions of section 148 of the Act applicable upto 31.03.2021 could not have been issued after 31.03.2021. This issue per se was subject matter of various writ petitions filed in various High Courts and ultimately got settled by the Hon'ble Supreme Court in the case of Union of India Vs. Ashish Agarwal reported in 444 ITR 1 (SC) dated 04.05.2022. Thereafter, the Id AO issued letter u/s 148A(b) of the Act on 26.05.2022 (PB 8-10). The assessee filed its reply on 10.06.2022 (PB 11-18). The Id AO passed an order u/s 148A(d) of the Act on 22.07.2022 (PB 19-26) rejecting the objections of the assessee and proceeded to issue notice u/s 148 of the Act on 22.07.2022 (PB 27-28).

3. Ld. Counsel submitted that the short question that arises for consideration of the Hon'ble Bench is as to whether the subsequent notice issued u/s 148 of the Act on 22.07.2022 is to be treated as time barred or not in the light of the decision of Hon'ble Supreme Court in the case of Union of India Vs. Rajeev

Bansal reported in 469 ITR 46 (SC). The above facts can be verified from following table and the compilation of the documents in paper book:

4. Ld. Counsel for the assessee placed reliance on the decision of the Hon'ble Supreme Court in the case of Rajiv Bansal (469 ITR 46). It is submitted that in view of the observation of the Hon'ble Supreme Court in the case of Rajeev Bansal (supra), the extended due date for issuance of notice u/s 148 of the Act expired on 18.06.2022 and since, the notice u/s 148 of the Act is issued on 22.07.2022, the said notice is to be treated as barred by limitation and consequentially reassessment proceedings would be liable to be quashed as void ab initio. This issue was also subject matter of consideration before Hon'ble co-ordinate Bench in the case of Tyagi Pipe Craft P Ltd vs ITO ITA No.147/Del/2025 dated 23.07.2025 where the Hon'ble Bench also relied on the decision of the Hon'ble Jurisdictional High Court in the case of Ram Balram Buildhome Vs. ITO & Anr reported in 445 ITR 1 (Del) dated 30.01.2025 to quash the notice issued beyond the surviving period.

5. Ld. DR placed reliance on the order of the authorities below.

6. Heard rival contentions, perused the orders of the authorities below. Admittedly in this case notice u/s 148 was issued on 22.07.2022 under new law based on which the reassessment for the AY 2014-15 was framed by the AO on 22.5.2023. The reassessment was challenged before the Ld. CIT(Appeals) and the Ld. CIT(Appeals) simply set aside the assessment to the Ld. AO for fresh assessment without adjudicating the legal contentions.

7. We find that identical issue came up before the coordinate bench of the Tribunal in the case of Tyagi Pipecraft Pvt. Ltd. vs. ITO (supra) wherein the Tribunal following the decisions of the Hon'ble Supreme Court in the case of Union of India vs. Rajiv Bansal and the Hon'ble Jurisdictional High Court in the case of Ram Balram Buildhome vs. ITO (supra) held that the notice issued u/s 148 is barred by limitation observing as under:

"3. We have heard the rival submissions and perused the material available on record. The return of income for AY 2014-15 was filed by the assessee u/s 139(1) of the Act 29.11.2014. Notice u/s 148 of the Act stood issued to the assessee on 28.03.2021. The Id AR pleaded that the said notice issued was as per old provisions of Section 148 of the Act prior to the substitution by Finance Act, 2021. It was submitted that section 148 of the Act has been substituted by Finance Act, 2021 w.e.f 01.04.2021 wherein notice u/s 148 of the Act as per the old provisions of section 148 of the Act applicable upto 31.03.2021 could not have been issued after 31.03.2021. This issue per se was subject matter of various writ petitions filed in various High Courts and ultimately got settled by the Hon'ble Supreme Court in the case of Union of India Vs. Ashish Agarwal reported in 444 ITR 1 (SC) dated 04.05.2022. Thereafter, the Id AO issued letter u/s 148A(b) of the Act on 26.05.2022 and subsequently, on 17.06.2022. The assessee filed its reply on 24.06.2022. The Id AO passed an order u/s 148A(d) of

the Act on 23.07.2022 rejecting the objections of the assessee and proceeded to issue notice u/s 148 of the Act on 23.07.2022. All these facts are not in dispute before us with regard to dates. Now the short question that arises for our consideration is as to whether the subsequent notice issued u/s 148 of the Act on 23.07.2022 is to be treated as time barred or not in the light of decision of Hon'ble Supreme Court in the case of Union of India Vs. Rajeev Bansal reported in 469 ITR 46 (SC). In this regard, it would be appropriate to reproduce the relevant portion of the decision of the Hon'ble Supreme Court in the case of Rajeev Bansal referred (supra) as under:-

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

111. The clock started ticking for the Revenue only after it received the response of the assesses to the show causes notices. After the receipt of the reply, the assessing officer had to perform the following responsibilities: (i) consider the reply of the assessee under section 149A(c); (ii) take a decision under Section 149A(d) based on the available material and the reply of the assessee; and (iii) issue a notice under section 148 if it was a fit case for reassessment. Once the clock started ticking, the assessing officer was See State of A P v. A P Pensioners Association, (2005) 13 SCC 161 [28]. [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 there from."]

PART F required to complete these procedures within the surviving time limit. The surviving time limit, as prescribed under the Income Tax Act read with TOLA, was available to the assessing officers to issue the reassessment notices under Section 148 of the new regime.

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

Thus, in this illustration, the time limit for issuance of a notice under Section 148 of the new regime will end on 18 August 2022.”

4. Now let us see whether the notice issued u/s 148 of the Act on 23.07.2022 is within the time in the light of the aforesaid observation of the Hon'ble Supreme Court. For this purpose, the following table would be relevant which is reproduced as under:-

5. Hence, in view of the observation of the Hon'ble Supreme Court in the case of Rajeev Bansal (supra), the extended due date for issuance of notice u/s 148 of the Act expired on 26.06.2022 and since, the notice u/s 148 of the Act is issued on 23.07.2022, the said notice is to be treated as barred by limitation and consequentially reassessment proceedings would be liable to be quashed as void ab initio. This issue was also subject matter of consideration by the Hon'ble Jurisdictional High Court in the case of Ram Balram Buildhome Vs. ITO & Anr reported in 445 ITR 1 (Del) dated 30.01.2025. Relevant operative portion of the said order is reproduced herein below:-

“65. Thus, in the facts of the present case, the last date for issuance of notice under Section 148 of the Act for AY 2013-14 under the statutory framework, as was existing prior to 01.04.2021 was 31.03.2020, that is, six years from the end of the relevant assessment year.

66. By virtue of Section 3 (1) of TOLA time for completion of specified acts, which fell during the period 20.03.2020 to 31.12.2020 were extended till 30.06.2021 [Notification No.38/21 dated 27.04.2021]. Thus, the notice dated 01.06.2021 was issued twenty-nine days prior to the expiry of period of limitation for issuing a notice under Section 148 of the Act as was extended by TOLA. As noted above, the period from 01.06.2021, the date of issuance of notice, and 04.05.2022, being the date of decision of the Supreme Court in Union of India & Ors. v. Ashish Agarwal is required to be excluded by virtue of the third proviso to Section 149 (1) of the Act.

67. Additionally, the period from the date of decision in Union of India & Ors. v. Ashish Agarwal² till the date of providing material, as required to the accompanied with a notice under Section 148A (b) of the Act is required to be excluded. Thus, the period between 04.05.2022 to 30.05.2022, the date on which the AO had issued the notice under section 148A (b) of the Act in furtherance of his earlier notice dated 01.06.2021, is also required to be excluded by virtue of the third proviso to Section 149 (1) of the Act as held by the Supreme Court in Union of India & Ors. v. Rajeev Bansal⁴.

68. In addition to the above, the time granted to the petitioner to respond to the notice dated 30.05.2022-the period of two weeks-is also required to be excluded by virtue of the third proviso to Section 149 (1) of the Act. The petitioner had furnished its response to the notice under section 148A (b) of the Act on 13.06.2022. Thus, the period of limitation began running from that date.

69. As noted above, by virtue of TOLA, the AO had period of twenty nine days limitation left on the date of commencement of the reassessment proceedings, which began on 01.06.2021, to issue a notice under Section 148 of the Act. The said notice was required to be accompanied by an order under Section 148A (d) of the Act. Thus, the AO was required to pass an order under Section 148A (d) of the Act within the said twenty-nine days notwithstanding the time stipulated under section 148A (d) of the Act. This period expired on 12.07.2022.

70. Since the period of limitation, as provided under Section 149 (1) of the Act, had expired prior to issuance of the impugned notice on 30.07.2022. The said is squarely beyond the period of limitation.

71. It is contended on behalf of the Revenue that the AO is required to pass an order under Section 148A (d) of the Act by the end of the month following the month on which the reply to the notice under section 148A (b) of the Act was received. Thus, the order under section 148A (d) of the Act as well as the notice under Section 148 of the Act (both dated 30.07.2022) are within the prescribed period. This contention is without merit as it does not take into account that proceedings under Section 148A of the Act necessarily required to be completed within the period available for issuing notice under section 148 of the Act, as prescribed under Section 149 of the Act. Thus, the time available to the AO to pass an order under Section 148A (d) of the Act was necessarily truncated and the same was required to be passed on or before 12.07.2022. The fourth proviso to section 149 of the Act did not come into play as the time period available for the AO to pass an order under Section 148A (d) of the Act was in excess of the seven days.

72. In view of the above, we find merit in Mr. Sehgal's contention that the impugned notice dated 30.07.2022 has been issued beyond the period of limitation.

73. The petition is accordingly allowed and the impugned order dated 30.07.2022 passed under Section 148A (d) of the Act; the impugned notice dated 30.07.2022 issued under Section 148 of the Act; and the assessment order dated 30.05.2023 framed under Section 147 of the Act pursuant to the notice dated 30.07.2022 for AY 2013-14, are set aside. Pending application is also disposed of."

6. Respectfully following the said decision, we hold that the notice issued u/s 148 of the Act on 23.07.2022 is barred by limitation. Accordingly, ground No. 1 raised by the assessee is allowed."

8. Above decisions squarely applies to the fact situation of the assessee and therefore respectfully following the above decisions, we hold that the notices issued u/s 148 on or after 1.4.2021 for reopening the assessment for the AY 2014-15 are barred by limitation and consequently the reassessment made based on such notices are bad in law and void ab initio. Thus, the impugned reassessment order having been made pursuant to notice issued u/s 148 dated

22.07.2022 the reassessment order is hereby held to be bad in law and the same is quashed. Ground No.1 of grounds of appeal of the assessee is allowed.

9. As we have quashed the reassessment on one of the legal issues raised in ground no.1 all other grounds are not adjudicated as they become only academic at this stage.

10. In the result, appeal of the assessee is partly allowed as indicated above.

Order pronounced in the open court on 03.11.2025