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**IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Date of Decision : 09.10.2025*

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W.P.(C) 6799/2023

MANISHA AGARWAL

.....Petitioner

Through: Mr Ved Jain, Mr Nischay Kantoor,  
Ms Sonia Dodeja and Mr Sarthak  
Abrol, Advocates.

versus

INCOME TAX OFFICER, WARD 59(1), DELHI &amp; ORS.

.....Respondent

Through: Ms Naincy Jain and Ms Madhavi  
Shukla, JSCs Mr Ujjwal Jain, and Mr  
Dhananjay, Advocates.

**CORAM:****HON'BLE MR. JUSTICE V. KAMESWAR RAO****HON'BLE MR. JUSTICE VINOD KUMAR****V. KAMESWAR RAO , J. (ORAL)**

1. This petition has been filed with the following prayers:

*“A. Issue a writ of and/or order and or directions in the nature of certiorari, prohibition, mandamus or any other appropriate writ, order or direction quashing impugned notice dated 08.06.2021 issued by Respondent No. 1 deemed to be notice under section 148A(b) of the Act, notice dated 18.05.2022, order dated 25.07.2022 passed by Respondent No.1 under section 148A(d) of the Act, the consequent initiation of reassessment proceedings vide notice issued under section 148 of the Act by Respondent No.1 on 25.07.2022 for AY 2014-15, DIN intimation letter dated 25.07.2022, prior approval purportedly*



*granted by Respondent No. 2 before passing of order dated 25.07.2022 under section 148A(d) and before issuance of notice dated 25.07.2022 under section 148, prior approval purportedly granted by Respondent No. 3 before issuance of initial notice dated 08.06.2021 and all proceedings/ actions consequent to the initiation of reassessment proceedings for AY 2014-15.*

*B. Issue writ and/or order and/or direction in the nature of mandamus/certiorari or any other appropriate writ, order or direction quashing the initiation of reassessment proceedings for assessment year 2014-15;*

*C. Issue a writ of and/or order and/or direction in the nature of prohibition commanding Respondents to forebear from giving effect to and/or taking any step whatsoever pursuant to and/or in furtherance of the impugned order dated 25.07.2022 and notice issued on 25.07.2022 for AY 2014-15;*

*D. Issue writ in the nature of certiorari or mandamus or any other appropriate writ, order or direction for quashing the Instruction No.1/2022 [being F. No. 279/MISC./M-51/2022-ITJ] dated 11.05.2022 issued by Respondent No.4, to the extent it stipulates issuance of notice for AY 2013-14 and AY 2014-15 for being contrary to the provisions of the Act and the judgment passed by Hon'ble Supreme Court in the case of Union of India vs. Ashish Agarwal: 2022 SCC Online SC 543.*

*E. Award cost of litigation;*

*F. Issue a writ in the nature of Mandamus or any other writ, order or direction, as deemed fit and proper in the facts and circumstances of the present case.”*

2. The challenge in this petition is to an order passed by the respondent under Section 148A(d) of the Income Tax Act, 1961 (the Act) dated 25.07.2022 and also to notice issued under Section 148 of the Act on the same date. This petition pertains to the Assessment Year 2014-15.



3. The submission of the learned Counsel for the petitioner is primarily that the notice under Section 148 of the Act has been issued on 25.07.2022 in the name of Park City Infrastructure (P) Ltd. for a different Assessment Year, though, initial notice under Section 148A(b) was issued in the name of petitioner with the correct PAN number and for the Assessment Year 2014-15. He do concede that the order under Section 148A(d) of the Act, which was passed on 25.07.2022 is in the name of Manish Agarwal, the petitioner herein, with the Assessment Year 2014-15 and the correct PAN number.
4. It is his submission by relying upon the judgment of this court in ***AVS Infrabuild Private Limited v. Assistant Commissioner of Income Tax, Circle 1(1), Delhi & Ors., W.P.(C) 9088/2023***, decided on 28.07.2023, wherein in view of the discrepancy, which has been highlighted by him, this Court while considering identical discrepancies had set aside the impugned action of the respondent in that case.
5. On the other hand, learned Counsel for the respondents submits that the notice issued under Section 148 of the Act in the name of Park City Infrastructure (P) Ltd. for the Assessment Year 2015-16 with a different PAN number was a mistake at the end of the respondents. She states that the said mistake has been rectified and a corrected notice under Section 148 of the Act was sent on the same date i.e. 25.07.2022, along with the order passed under Section 148A(d) of the Act on 25.07.2022. Her submission is that the plea of the learned counsel for the petitioner that the notice under Section 148 of the Act having been issued in the name of Park City Infrastructure (P) Ltd. for a different Assessment Year with a different PAN number is inconsequential, as the said mistake has been corrected.
6. On this learned Counsel for the petitioner states that though much can



be said on the submission made by learned counsel for the respondents, even otherwise the proceedings, which have been initiated under Section 148A(b) of the Act resulting in an order under Section 148A(d) of the Act and also a notice under Section 148 of the Act are barred by limitation, in as much as the initial notice under Section 148 of the Act was deemed to be a show cause notice under Section 148A(b) of the Act in terms of the judgment of the Supreme Court of India in ***Union of India vs. Ashish Agarwal, 2022 SCC Online SC 543***, decided on 08.06.2021 and the surviving period from the date of issuance of deemed show cause notice till expiry of period as extended by Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA) shall be from 08.06.2021 till 30.06.2021. He also states that the replies to the show cause notice was filed on 02.06.2022 and 16.06.2022. The said period need to be excluded for the purpose of calculating the surviving period. So if period is added beyond 16.06.2022 the last date for issuing notice under Section 148 of the Act was 08.07.2022 but in this case the actual date of issuance of notice being 25.07.2022, the same is barred by time.

7. Ms Jain, appearing for the respondents/Revenue has not shown to us anything contrary to what has been contended by the counsel for the petitioner.

8. We find that the issue, which has been raised is covered by the judgment of Hon'ble Supreme Court of India in ***Union of India v. Rajeev Bansal, [2024] 469 ITR 46 (SC)***, which we reproduced as under :

*108. The Income Tax Act read with TOLA extended the time limit for issuing reassessment notices under Section 148, which fell for completion from 20 March 2020 to 31 March 2021, till 30 June 2021. All the reassessment notices under challenge in the present appeals were*



*issued from 1 April 2021 to 30 June 2021 under the old regime. Ashish Agarwal (supra) 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.<sup>163</sup> Therefore, the logical effect of the creation of the legal fiction by Ashish Agarwal (supra) is that the time surviving under the Income Tax Act read with TOLA 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 30 June 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 TOLA. 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 TOLA. This construction gives full effect to the legal fiction created in Ashish Agarwal (supra) and enables both the assesses and the Revenue to obtain the benefit of all consequences flowing from the fiction.<sup>164</sup>*

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

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



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

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

*113. In Ashish Agarwal (supra), this Court allowed the assessee to avail 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 204 notices within the period prescribed under Section 149(1) of the new regime read with TOLA; 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 TOLA. A reassessment notice issued beyond the surviving time limit will be time barred.”*

9. In view of the aforesaid position of law and also in view of the dates, which have been encapsulated in the chart as submitted by learned counsel for petitioner:, the issue is covered by the Judgment in ***UOI Vs. Rajeev Bansal (Supra)***.

CHART ENCAPSULATED COMPUTATION OF THE PERIOD OF LIMITATION

S. No.	Particulars	Particulars
1.	Assessment Year	2014-15
2.	Period of Limitation u/s 149 [3 years or 6 years]	6 years
3.	Original Period of limitation u/s 149	31.03.2021
4.	Extended period of limitation as per IT Act read with TOLA	30.06.2021
5.	Date of original notice u/s 148 – deemed SCN u/s 148A(b)	08.06.2021
6.	Time surviving from date of issuance of deemed SCN till expiry of period as extended by TOLA [from 08.06.2021 till 30.06.2021]	22
7.	Date of judgment of Supreme Court in the case of Ashish Agarwal	04.05.2022
8.	Date of issuance of notice and supplying of information post judgment of Ashish agarwal allowing 14 days to file the reply.	18.05.2022
9.	Date on which reply was required to be filed in terms of notice dated 18.05.2022	02.06.2022
10.	Date on which reply was filed by the Petitioner	02.06.2022 and 16.06.2022
11.	Period of deemed stay to be excluded as per 3 <sup>rd</sup> proviso to section 149 [Date of Original 148 till date allowed to file reply to Petitioner]	08.06.2021 to 16.06.2022
12.	Date from which clock started ticking for Respondent to issue notice under Section 148	16.06.2022
13.	Last date for issuing notice u/s 148 [16.06.2022 + 22 days – surviving period]	08.07.2022
14.	Actual date of issuance of notice u/s 148	25.07.2022
15.	Notice u/s 148 issued under new regime is barred by limitation	



10. So, it follows the impugned action of issuance of order under Section 148A(d) and also the notice under Section 148 are liable to set aside. It is necessary to state at this stage, that the counsel for the respondents has informed us that the final assessment order has been passed on 22.05.2023. If that be so, the order passed under Section 148A(d) dated 25.07.2022, notice under Section 148 dated 25.07.2022 of the Act and the assessment order passed thereof are set aside. The petition is disposed of.

**V. KAMESWAR RAO, J**

**VINOD KUMAR, J**

**OCTOBER 09, 2025**

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