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

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*Date of Decision : 24.03.2025*+ **W.P.(C) 2211/2023****BHAGWAN SAHAI SHARMA**

.....Petitioner

Through: Ms Ananya Kapoor, Mr Sumit Lalchandani, Mr Utkarsa Kumar Gupta, and Mr Shivam Yadav, Advocates.

versus

**DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE 13-1, DELHI & ANR.**

.....Respondents

Through: Mr Abhishek Maratha, SSC, Mr Apoorv Agarwal, Mr Parth Samwal, JSCs, Ms Nupur Sharma, Mr Gaurav Singh, Ms Muskaan Goel, Mr Bhanukaran Singh Jodha, Advocates for the Revenue

**CORAM:****HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MR. JUSTICE TEJAS KARIA****VIBHU BAKHRU, J. (ORAL)**

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

“A. Issue a writ of and/or order and or directions in the nature of certiorari or any other appropriate writ, order, or direction quashing impugned notice dated 30.07.2022 issued under Section 148 of the Act and the impugned order dated 30.07.2022



passed under Section 148A(d) of the Act and the notice issued under Section 148A(b) of the Act dated 02.06.2022 by the Respondent No. 1 and the proceedings initiated pursuant thereto;

B. Issue a writ of and/or order and/or direction in the nature of Prohibition commanding Respondent No. 1 to forebear from giving effect to and/or taking any step whatsoever pursuant to and/ or in furtherance of the said purported notice under Section 148 of the Act and/or in any proceedings initiated thereunder for the AY 2015-16, and grant stay on the reassessment proceedings.”

2. The petitioner [Assessee] impugns a notice dated 30.07.2022 [**the impugned notice**] issued under Section 148 of the Income Tax Act, 1961 [**the Act**] in respect of the Assessment Year [AY] 2015-2016 as being barred by limitation.

3. The Assessee had filed its return of income for AY 2015-2016 on 26.08.2015 declaring a total income of ₹60,64,800/-. The initial notice under Section 148 of the Act was issued on 27.06.2021, seeking to reopen the assessment for the AY 2015-16. The said notice was issued under the provision of the Act relating to reassessment of income (Sections 147-151 of the Act) that were in force prior to 31.03.2021.

4. In the meanwhile, a member of such notices, which were issued under Section 148 of the Act after 31.03.2021 but following the regime as was in force prior to the said date, were also challenged before this court in a number of proceedings. The said petitions were allowed on 15.12.2021 in **Mon Mohan Kohli v. ACIT & Anr.: Neutral Citation No.: 2021:DHC:4181-DB** and other connected matters. Similar decisions were



rendered by some other High Courts.

5. Appeals were preferred against these decisions before the Supreme Court. In ***Union of India & Others v. Ashish Agarwal: (2023) 1 SCC 617***, the Supreme Court exercising the powers under Article 142 of Constitution of India issued directions for considering the notices issued under Section 148 of the Act as notices issued under Section 148A(b) of the Act and directed the AO to furnish such material and information to the assessee as were required to accompany a notice under Section 148A(b) of the Act.

6. In compliance with the directions issued in ***Union of India & Others v. Ashish Agarwal*** (supra), the AO provided information and material to the Assessee by issuing a fresh notice under Section 148A(b) of the Act on 02.06.2022. The Assessee was granted time to respond to the said notice till 27.06.2022. The Assessee responded to the notice dated 02.06.2022 by a letter dated 25.06.2022.

7. The AO passed an order under Section 148A(d) of the Act on 30.07.2022 and issued the impugned notice. According to the Assessee, the same has been issued beyond the period of limitation.

8. In a subsequent decision in ***Union of India and Others v. Rajeev Bansal: 2024 INSC 754***, the Supreme Court considered the applicability of the provisions of Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 [TOLA]. During the said proceedings, it was conceded on behalf of the Revenue that TOLA was not applicable for AY 2015-16. The same is recorded in para 19(f) of the said decision. Paragraphs 19(e) and 19(f) of the said decision are set out below: -



“(e) The Finance Act 2021 substituted the old regime for re-assessment with a new regime. The first proviso to Section 149 does not expressly bar the application of Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. Section 3 of the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 applies to the entire Income Tax Act, including sections 149 and 151 of the new regime. Once the first proviso to section 149(1)(b) is read with Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, then all the notices issued between April 1, 2021 and June 30, 2021 pertaining to the assessment years 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018 will be within the period of limitation as explained in the tabulation below:

<b>Assessment Year (1)</b>	<b>Within 3 Years (2)</b>	<b>Expiry Limitation read with TOLA for (2) (3)</b>	<b>Within six Years (4)</b>	<b>Expiry of Limitation read with TOLA for (4) (5)</b>
2013-2014	31.03.2017	TOLA not applicable	31.03.2020	30.06.2021
2014-2015	31.03.2018	TOLA not applicable	31.03.2021	30.06.2021
2015-2016	31.03.2019	TOLA not applicable	31.03.2022	TOLA not applicable
2016-2017	31.03.2020	30.06.2021	31.03.2023	TOLA not applicable



2017-2018	31.03.2021	30.06.2021	31.03.2024	TOLA not applicable
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(f) The Revenue concedes that for the assessment year 2015-2016, all notices issued on or after April 1, 2021 will have to be dropped as they will not fall for completion during the period prescribed under the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020.”

9. Following the aforesaid concessions, this court in ***Ibibo Group Private Limited v. Assistant Commissioner of Income Tax: W.P.(C) 17639/2022 decided on 13.12.2024***, allowed the petition challenging such a notice, which was issued beyond the period of limitation as the same was concededly not covered by the provisions of TOLA. Similar orders have also been passed by other courts.

10. In ***The Income Tax Officer Ward 1(2) Jaipur v. R.K. Build Creation Pvt Ltd: Special Leave Petition (Civil) Diary No. 59625/2024***, the Supreme Court had dismissed the SLP arising from a similar decision rendered by the Hon’ble Rajasthan High Court in DBCWP No.14414/2022. The said order is set out below: -

“Delay condoned.

Having regard to the concession made by the petitioner-Department in the case of Union of India vs. Rajeev Bansal, Civil Appeal no.8629 of 2024 on 03.10.2024 (2024 SCC ONLINE 754), this Special Leave Petition would not survive for further consideration.

Hence, the Special Leave Petition is dismissed.

Pending application(s), if any, shall stand disposed of.”

11. In the present case, the impugned notice was issued on 30.07.2022



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which is admittedly beyond the period of limitation as prescribed under Section 149(1) of the Act. And, TOLA is not applicable in respect of the said notice, as was conceded by the Revenue in the case of *Union of India v. Rajeev Bansal: 2024 INSC 754* (supra). The impugned notice is liable to be set aside.

12. Accordingly, the impugned notice and proceedings emanating thereto are set aside.

13. The present petition is allowed in the aforesaid terms.

**VIBHU BAKHRU, J**

**TEJAS KARIA, J**

**MARCH 24, 2025**

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*Click here to check corrigendum, if any*