

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH**  
**AT SRINAGAR**

**WP(C) No. 1906/2022**

**Reserved on : 28.08.2025**

**Pronounced on : 27.02.2026**

**Uploaded on : 27.02.2026**

Jasbir Singh Oberoi

.... Petitioner/Appellant(s)

Through:- Mr. A.H. Naik, Sr. Advocate with  
Mr. Zia, Advocate

V/s

Union of India and others

.....Respondent(s)

Through:- Mr. Umar Rashid Wani, Advocate  
Mr. Faizan Ganie, CGSC vice  
Mr. T.M. Shamsi, DSGI

**CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE**  
**HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE**

**JUDGMENT**

**Per: (Sindhu Sharma-J)**

1. The petitioner, through the medium of present writ petition, seeks the following reliefs:

- i. By issuance Writ of Certiorari, the impugned instructions issued by the Central Board of Direct Taxes dated 11.05.2022 in connection with the implementation of Supreme Court judgment dated 04.05.2022 as also 148(A)(d) of Income Tax Act, 1961 dated 25.07.2022 and intimation letter for notice u/s 148 of Income Tax Act dated 26.07.2022 issued by respondents, may kindly be quashed.
- ii. Writ of Mandamus, commanding the respondents not to initiate proceedings u/s 148 of the Income Tax Act and not to pass any adverse order against the petitioner in any manner whatsoever.

2. The impugned proceedings relate to Financial Year 2012–13, relevant to Assessment Year 2013–14. The record reveals that an initial notice under Section 148 of the Act for Assessment Year 2013–14 was issued

to the petitioner on 31.05.2021. Subsequently, pursuant to the judgment of the Hon'ble Supreme Court in "Union of India v. Ashish Agarwal", Civil Appeal No. 3005 of 2022, dated 04.05.2022, the Assessing Officer (respondent No. 4) issued a communication dated 24.05.2022, providing information suggesting that some income may have escaped assessment under Section 147 of the Act and asked the petitioner to show cause as to why an order under Section 148A(d) should not be passed.

3. In the said show cause notice alleged escapement of income to the extent of Rs. 1,30,00,000/- and provided fifteen days' time from the date of receipt of the notice to submit a response, and the compliance was required to be made on or before 08.06.2022. However, no response was filed by the petitioner to the aforesaid show cause notice. Consequently, the Assessing Officer passed an order dated 25.07.2022 under Section 148A(d), holding the case fit for issuance of a notice under Section 148, and issued the consequential notice dated 26.07.2022.
4. As recorded in the order dated 02.09.2022, the principal submission advanced on behalf of the petitioner is that the proceedings relating to Assessment Year 2013–14 are barred by limitation in view of the proviso to Section 149 of the Act. It has been contended that the proviso to Section 149 specifically stipulates that no notice under Section 148 shall be issued if such notice could not have been issued at the relevant time on account of being beyond the time limit specified under Section 149(1)(b), as it stood immediately prior to the commencement of the Finance Act, 2021.
5. It is the further case of the petitioner that in terms of the proviso to Section 149, as amended with effect from 01.04.2021, since more than

six years had elapsed from the end of Assessment Year 2013–14 on 31.03.2020, no notice for reassessment could have been validly issued for the said assessment year.

6. The petitioner has, therefore, laid challenge to the aforesaid proceedings on the ground that the same are hit by limitation prescribed for reopening of assessments for Assessment Year 2013–14.
7. Before adverting to the rival contentions, it would be apposite to notice the statutory framework governing initiation of reassessment proceedings as it existed prior to the coming into force of the Finance Act, 2021. The procedure for reopening of assessments was, at the relevant time, regulated by the following provisions of the Income-tax Act, 1961:

*"Income escaping assessment-*

*147. If the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may, subject to the provisions of sections 148 to 153, assess or reassess such income and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section, or recomputed the loss or the depreciation allowance or any other allowance, as the case may be, for the assessment year concerned (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year) :*

*Provided that where an assessment under sub-section (3) of section 143 or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 139 or in response to a notice issued under sub-section (1) of section 142 or section 148 or to disclose fully and truly all material facts necessary for his assessment, for that assessment year :*

*Provided further that nothing contained in the first proviso shall apply in a case where any income in relation to any asset (including financial*

*interest in any entity) located outside India, chargeable to tax, has escaped assessment for any assessment year :*

*Provided also that the Assessing Officer may assess or reassess such income, other than the income involving matters which are the subject matters of any appeal, reference or revision, which is chargeable to tax and has escaped assessment.”*

*“Time limit for notice-*

*149. (1) No notice under section 148 shall be issued for the relevant assessment year,—*

*(a) if four years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b) or clause (c);*

*(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;*

*(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.”*

8. Owing to the nationwide lockdown imposed during the period of the COVID-19 pandemic, and in exercise of the powers conferred under Section 3 of the Taxation and Other Laws (Relaxation of Certain Provisions) Act, 2020 (hereinafter referred to as “the TOLA”), the Central Government issued a series of notifications dated 31.03.2020, 24.06.2020, 31.03.2021 and 27.04.2021, inter alia, extending the timelines prescribed under Section 149 of the Act for issuance of reassessment notices under Section 148. The cumulative effect of the TOLA and the notifications issued thereunder was that:

- (i) where the time prescribed for passing of any order or issuance of any notice, sanction or approval fell for completion or compliance during the period from 20 March 2020 to 31 March 2021; and
- (ii) where such completion or compliance could not be effected within the stipulated period, the time limit for completion or compliance of such action stood extended up to 30 June 2021.

9. Thereafter, the Parliament introduced a comprehensive overhaul of the reassessment regime contained in Sections 147 to 151 of the Act by enactment of the Finance Act, 2021, which received the assent of the President on 28 March 2021 and came into force with effect from 1 April 2021.
10. Under the amended scheme, the limitation for issuance of a notice under Section 148 was curtailed to three years from the end of the relevant assessment year. An extended period of ten years was provided only in cases where the Assessing Officer is in possession of books of account or other documents or evidence which reveal that income chargeable to tax, represented in the form of an asset, has escaped assessment and the amount of such income is fifty lakh rupees or more for that assessment year.
11. Significantly, the Legislature introduced an additional statutory embargo by insertion of the first proviso to Section 149(1), whereby it was expressly stipulated that no notice under Section 148 shall be issued at any time for any assessment year beginning on or before 1 April 2021, if such notice could not have been issued on that date owing to the expiry of the limitation period prescribed under clause (b) of sub-section (1) of Section 149, as it stood prior to the commencement of the Finance Act, 2021.
12. The relevant amended statutory provisions, as introduced by the Finance Act, 2021, are reproduced as under:

*“Conducting inquiry, providing opportunity before issue of notice under section 148 –*

148A. *The Assessing Officer shall, before issuing any notice under section 148,—*

(a) *conduct any enquiry, if required, with the prior approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment;*

(b) *provide an opportunity of being heard to the assessee, with the prior approval of specified authority, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 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 and results of enquiry conducted, if any, as per clause (a);*

(c) *consider the reply of assessee furnished, if any, in response to the show-cause notice referred to in clause (b);*

(d) *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, by passing an order, with the prior approval of specified authority, within one month from the end of the month in which the reply referred to in clause (c) is received by him, or where no such reply is furnished, within one month from the end of the month in which time or extended time allowed to furnish a reply as per clause (b) expires :*

*Provided that the provisions of this section shall not apply in a case where,—*

(a) *a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A in the case of the assessee on or after the 1st day of April, 2021; or*

(b) *the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any money, bullion, jewellery or other valuable article or thing, seized in a search under section 132 or requisitioned under section 132A, in the case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or*

(c) *the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any books of account or documents, seized in a search under section 132 or requisitioned under section 132A, in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee.*

*Explanation.—For the purposes of this section, specified authority means the specified authority referred to in section 151."*

*"Time limit for notice-*

*"149. (1) No notice under section 148 shall be issued for the relevant assessment year,—*

*(a)if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);*

*(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 :*

*Provided that no notice under section 148 shall be issued at any time in a case for the relevant assessment 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 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."*

13. Notwithstanding that Sections 147 to 151 of the Act stood substituted by the Finance Act, 2021 with effect from 1 April 2021, the Revenue

proceeded to issue reassessment notices to various assesses under the erstwhile Sections 148 to 151, placing reliance on the extended period of limitation provided under the notifications issued in exercise of powers under the TOLA. Such notices were assailed before different High Courts, which consistently held that reassessment notices issued on or after 01.04.2021 were required to be governed by the substituted provisions introduced by the Finance Act, 2021, and that notices issued under the unamended provisions after the said date were unsustainable in law. Consequently, the reassessment notices issued under Section 148 of the Act after 01.04.2021 under the erstwhile regime came to be set aside.

14. The matter was carried in appeal before the Hon'ble Supreme Court in *Union of India v. Ashish Agarwal* [(2022) 444 ITR 1 (SC)], decided on 04.05.2022. The Hon'ble Supreme Court expressed its complete agreement with the view taken by the various High Courts that the benefit of the substituted provisions would apply even to past assessment years where notices under Section 148 were issued on or after 01.04.2021. However, considering the Revenue's submission that such notices were issued under a bona fide belief regarding the enforcement of the amendments, the Hon'ble Supreme Court invoked its powers under Article 142 of the Constitution of India to balance the equities between the Revenue and the assesseees.

15. Accordingly, the Supreme Court directed that the reassessment notices issued under the erstwhile regime shall be deemed to have been issued under Section 148A(b) of the Act, as substituted by the Finance Act, 2021, and issued the following directions:

**10.** *In view of the above and for the reasons stated above, the present Appeals are ALLOWED IN PART. The impugned common judgments and orders passed by the High Court of Judicature at Allahabad in W.T. No. 524/2021 and other allied tax appeals/petitions, is/are hereby modified and substituted as under : -*

(i)	<i>The impugned section 148 notices issued to the respective assessees 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 148A of the IT Act as substituted by the Finance Act, 2021 and construed or treated to be show-cause notices in terms of section 148A(b). The assessing officer shall, within thirty days from today provide to the respective assessees information and material relied upon by the Revenue, so that the assesees can reply to the show-cause notices within two weeks thereafter;</i>
(ii)	<i>The requirement of conducting any enquiry, if required, with the prior approval of specified authority under section 148A(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.</i>
(iii)	<i>Even otherwise as observed hereinabove holding any enquiry with the prior approval of specified authority is not mandatory but it is for the concerned Assessing Officers to hold any enquiry, if required;</i>
(iv)	<i>The assessing officers shall thereafter pass orders in terms of section 148A(d) in respect of each of the concerned assessees; Thereafter after following the procedure as required under section 148A may issue notice under section 148 (as substituted);</i>
(v)	<i>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 concerned assessee and Revenue under the Finance Act, 2021 and in law shall continue to be available.</i>

**11.** *The present order shall be applicable PAN INDIA and all judgments and orders passed by different High Courts on the issue and under which similar*

*notices which were issued after 1-4-2021 issued under section 148 of the Act are set aside (Sic) and shall be governed by the present order and shall stand modified to the aforesaid extent. The present order is passed in exercise of powers under Article 142 of the Constitution of India so as to avoid any further appeals by the Revenue on the very issue by challenging similar judgments and orders, with a view not to burden this Court with approximately 9000 appeals. We also observe that present order shall also govern the pending writ petitions, pending before various High Courts in which similar notices under section 148 of the Act issued after 1-4-2021 are under challenge.*

*12. The impugned common judgments and orders passed by the High Court of Allahabad and the similar judgments and orders passed by various High Courts, more particularly, the respective judgments and orders passed by the various High Courts particulars of which are mentioned hereinabove, shall stand modified/substituted to the aforesaid extent only.*

16. On 11.05.2022, the Central Board of Direct Taxes issued Instruction No. 01/2022 to implement the decision in *Union of India v. Ashish Agarwal* (supra) prescribing *inter alia* that for Assessment Year 2013–14, Assessment Year 2014–15 and Assessment Year 2015–16, fresh notice under Section 148 of the Act may be issued, subject to the approval of the specified authority, if the case satisfies the conditions laid down in clause (b) of sub-section (1) of Section 149, as amended by the Finance Act, 2021.

17. The validity of the reassessment notices issued under section 148 of the new regime between July and September 2022 was once again subject to challenge before High Courts which declared the notices to be invalid on the ground that they were: (i) time-barred; and (ii) issued without the appropriate sanction of the specified authority. The issue again travelled to the Hon'ble Supreme Court in the *Union of India vs. Rajeev Bansal* [2024] 469 ITR 46 (SC)[03-10-2024] where in the Hon'ble has

has laid down the law to consider such notice as valid notice or invalid notice depending upon the surviving time left between the date of issuance of notice under section 148 of the Act read with section 3(1) of TOLA up to 30.06.2021 and the issuance of notice under section 148 pursuant to the directions issued by the Hon'ble Apex Court in case of Ashish Agarwal.

18. On 11.05.2022, the Central Board of Direct Taxes issued Instruction No. 01/2022 for implementation of the decision of the Hon'ble Supreme Court in Ashish Agarwal (supra). The said Instruction, inter alia, stipulated that for Assessment Years 2013–14, 2014–15 and 2015–16, a fresh notice under Section 148 of the Act could be issued, with the approval of the specified authority, provided the case fell within clause (b) of sub-section (1) of Section 149, as amended by the Finance Act, 2021.

19. The reassessment notices issued under Section 148 of the Act pursuant to the aforesaid Instruction during the period July to September 2022 were once again subjected to challenge before various High Courts. The High Courts invalidated such notices on, inter alia, the grounds that the notices were barred by limitation; and the mandatory sanction of the specified authority had not been validly obtained.

20. The controversy once again reached the **Hon'ble Supreme Court in Union of India v. Rajeev Bansal [(2024) 469 ITR 46 (SC)]**, decided on 03.10.2024. The Supreme Court examined the legality of such reassessment notices in the context of the time remaining as on 30.06.2021, being the outer date stipulated under Section 3(1) of the TOLA, and the subsequent issuance of notices under Section 148

pursuant to the directions issued in Ashish Agarwal. The Court laid down the governing principles for determining whether such notices would be valid or invalid, depending upon the subsisting limitation available to the Revenue, which are as under: -

*“Interplay of Ashish Agarwal with TOLA*

**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. East End Dwellings Co. Ltd. v. Finsbury Borough Council [1952] AC 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 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. See State of A P v. A P Pensioners Association [2005] 13 SCC 161. [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 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 assesses 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 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.

#### G. Conclusions

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

a.	After 1 April 2021, the Income-tax Act has to be read along with the substituted provisions;
b.	TOLA will continue to apply to the Income-tax Act after 1 April 2021 if any action or proceeding specified under the substituted provisions of the Income-tax Act falls for completion between 20 March 2020 and 31 March 2021;
c.	Section 3(1) of TOLA 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.	TOLA will 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 extended time till 30 June 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 20 March 2020 and 31 March 2021, then the specified authority under section 151(2) has extended time till 31 March 2021 to grant approval;
f.	The directions in Ashish Agarwal (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;
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 1 April 2021 and 30 June 2021 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), and the period of two weeks allowed to the assesses 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 TOLA. All notices issued beyond the surviving period are time barred and liable to be set aside;

21. In view of the aforesaid legal position, the issue arising in the present writ petition stands squarely covered by the judgment of the Hon'ble Supreme Court in *Union of India v. Rajeev Bansal* (supra). In the facts of the present case, the last date for issuance of a notice under Section 148 of the Act for Assessment Year 2013–14, under the statutory framework as it existed prior to 01.04.2021, was 31.03.2020, being six years from the end of the relevant assessment year.

22. By virtue of Section 3(1) of the Taxation and Other Laws (Relaxation of Certain Provisions) Act, 2020, the time for completion of specified acts which fell during the period from 20.03.2020 to 31.12.2020 stood extended up to 30.06.2021. Consequently, the notice dated 31.05.2021 was issued when thirty days of limitation were still available to the Assessing Officer for issuance of a notice under Section 148 of the Act, as extended by operation of TOLA. As noticed earlier, the period commencing from 01.06.2021, being the date immediately following issuance of the notice, till 04.05.2022, being the date of the decision of the Supreme Court in *Union of India v. Ashish Agarwal* (supra), is liable to be excluded in terms of the third proviso to Section 149(1) of the Act.

23. Additionally, the period commencing from 04.05.2022 till 24.05.2022, being the date on which the Assessing Officer issued the notice under Section 148A(b) of the Act in furtherance of the earlier notice dated 31.05.2021, is also required to be excluded under the third proviso to Section 149(1) of the Act, as authoritatively held by the Supreme Court in *Rajeev Bansal* (supra).

24. Further, the time granted to the petitioner to respond to the notice dated 24.05.2022, i.e. two weeks, is likewise required to be excluded under the third proviso to Section 149(1) of the Act. It is not in dispute that the petitioner did not submit any response to the notice issued under Section 148A(b). Consequently, the period of limitation recommenced on 08.06.2022.

25. As noted hereinabove, upon recommencement of limitation, the Assessing Officer had only thirty days available to complete the reassessment initiation process and issue a valid notice under Section 148 of the Act, accompanied by an order under Section 148A(d) of the Act. Accordingly, the order under Section 148A(d), and the consequential notice under Section 148, were required to be issued on or before 08.07.2022.

26. Admittedly, the impugned order under Section 148A(d) of the Act was passed on 25.07.2022 and the consequential notice under Section 148 of the Act was issued on 26.07.2022, i.e., after expiry of the period of limitation prescribed under Section 149(1) of the Act.

27. The impugned initiation of reassessment proceedings is, therefore, clearly barred by limitation and cannot be sustained in law. Consequently, the order dated 25.07.2022 passed under Section 148A(d) of the Act and the notice dated 26.07.2022 issued under Section 148 of the Act are liable to be quashed.

28. In view of the aforesaid facts and circumstances and the law laid down, this petition is accordingly allowed. The impugned order dated 25.07.2022 passed under Section 148A(d) of the Act and the consequential notice dated 26.07.2022 issued under Section 148 of the

Act are hereby set aside. Pending applications, if any, shall also stand disposed of.

(SHAHZAD AZEEM)  
**Judge**

(SINDHU SHARMA)  
**Judge**

**SRINAGAR**

27.02.2026

Vishal Khajuria

*Whether the judgment is speaking: Yes/No*

*Whether the judgment is reportable: Yes/No*

