Gordhanbhai Devjibhai Kapadia, Proprietor of M/s Kapadia Brothers v. Income Tax Officer, Ward 1(2)(1), Rajkot

R/Special Civil Application No. 9146 of 2023

R/Special Civil Application No. 9146 of 2023 (Guj HC, decided 16.06.2026) | 2026-06-16

Order under section 148A(d) dated 26.07.2022 and reassessment notice under section 148 dated 27.07.2022 for AY 2013-14 quashed as barred by limitation under Union of India v. Rajeev Bansal where the 'surviving time' expired on 11.07.2022.

Income-tax Act, 1961: sections 148, 148A(b), 148A(d) | TOLA: section 3(1)

High Court of Gujarat | 2-judge bench (Division Bench) | A.S. Supehia, J. | Vaibhavi D. Nanavati, J.

Assessment years: 2013-14

Counsel-name inconsistency in the original

The appearance block and paragraph 1 identify Maunil G. Yajnik for the respondent; paragraph 8 instead names Karan Sanghani. The judgment does not resolve this inconsistency.

01 FACTS OF THE CASE

For AY 2013-14, the Assessing Officer initially issued an old-regime notice under section 148 on 04.06.2021 during the TOLA extension period (leaving 26 days of surviving time up to 30.06.2021). Pursuant to Union of India v. Ashish Agarwal, (2022) 444 ITR 1 (SC), the AO supplied information under section 148A(b) on 31.05.2022, granting 15 days up to 15.06.2022 to file a reply (which the petitioner filed on 13.06.2022). Adding the surviving time from 15.06.2022, the outer limitation date for issuing a valid notice under section 148 was 11.07.2022; however, the AO passed the section 148A(d) order on 26.07.2022 and issued the section 148 notice on 27.07.2022.

Source: PDF p.1

02 DISCUSSION BY THE HON'BLE COURT

Applying paragraphs 114(g) and 114(h) of the Supreme Court judgment in Union of India v. Rajeev Bansal, (2024) 469 ITR 46 (SC) and the Gujarat High Court's coordinate Bench decision dated 08.07.2025 in Dhanraj Govindram Kella v. ITO (SCA No. 6387 of 2023 and allied matters), the Division Bench noted that Senior Standing Counsel for the Revenue verified and could not controvert the surviving-time dates. Because the surviving limitation period expired on 11.07.2022, the section 148 notice issued on 27.07.2022 was beyond the surviving period and invalid in law.

Source: PDF p.2

03 JUDICIAL DECISION

The Gujarat High Court allowed R/Special Civil Application No. 9146 of 2023 and quashed the order dated 26.07.2022 under section 148A(d), the notice dated 27.07.2022 under section 148, and all consequential proceedings.

Source: PDF p.6

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee (Gordhanbhai Devjibhai Kapadia); section 148A(d) order dated 26.07.2022 and section 148 notice dated 27.07.2022 quashed as time-barred.

Source: PDF p.6

05 EXPERT COMMENTS

AKHB EXPERT COMMENTS — editorial analysis, distinct from the Court's findings.

Why the chronology defeated reopening — The decisive defect was exhaustion of the surviving time, rather than the quality of the alleged escaped-income material. Paragraph 7 ties the original 4 June 2021 notice to the TOLA endpoint of 30 June 2021, then records information supplied on 31 May 2022 and a reply deadline of 15 June. The Court fixes 11 July 2022 as the resulting last date. The new notice of 27 July therefore failed even though the assessee had replied on 13 June.

Using the precedent without mixing records — The four-row table on page 4 belongs to the quoted Dhanraj Govindram Kella decision; none of those rows is this petition. The practical evidentiary task is to establish the original notice, information-supply date, permitted response period and new notice in the particular case. Neither the table's dates nor 11 July 2022 can be treated as a universal deadline for other reassessments.

Effect and limits of the relief — The Court applies the Rajeev Bansal propositions reproduced in paragraph 9 concerning the deemed stay and the remaining period. Its operative relief removes both the 26 July section 148A(d) order and the 27 July notice, together with consequential proceedings. That is final relief against this reopening, not a finding that the underlying income allegation was factually wrong or an adjudication of unrelated assessment years.

Source: PDF p.1

SOURCE & VERIFICATION

Original judgment PDF (20260616_GJHC240328102023.pdf)

Reviewed from the complete 7-page official High Court judgment PDF (20260616_GJHC240328102023.pdf, SHA-256: 049e54889c7ee32d2ad3bf5311fa6ed16e267e59120d431ac41d09ba00b50418).

All 7 original pages read and visually inspected; all five panels audited.

Open cited source rendition

Primary source verified page-by-page (7 physical pages, 125,832 bytes, SHA-256: 049e54889c7ee32d2ad3bf5311fa6ed16e267e59120d431ac41d09ba00b50418). Cloud Google Drive File ID: 1R85bHN1KOtJJTJnn4d2hTTkoVoX22QEI (https://drive.google.com/file/d/1R85bHN1KOtJJTJnn4d2hTTkoVoX22QEI/view).

STATUTORY SCOPE

Refers to the Income-tax Act, 1961 and allied statutory rules/circulars as applicable to the relevant assessment years.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment has not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.