

Union of India & Ors. v. Ashish Agarwal

Civil Appeal No. 3005 of 2022 and connected proceedings (full list below)

[2022] 3 S.C.R. 638 | 2022-05-04

How notices issued under the former section 148 after the Finance Act 2021 reassessment regime took effect on 1 April 2021 should be treated, and whether an Article 142 transitional remedy could preserve a lawful further process while retaining the assessee's statutory safeguards and defences.

147 | 148 | 148A(a) | 148A(b) | 148A(c) | 148A(d) | 149 | 151

Two-judge bench | M. R. Shah, J. | B. V. Nagarathna, J.

Assessment years: See the source-scope notes; no year inferred.

Notice-specific conversion; statutory safeguards retained

Exceptional PAN-India directions for the identified old-law notices and similar litigation; conversion is not universal validation, extension of every limitation period or permission to ignore sections 148A, 149 and 151.

[paragraphs 8-12 / PDF pages 22, 23, 24, 25 / judgment](#); [paragraphs 10-12 / PDF pages 31, 32, 33, 34 / judgment](#)

01 FACTS OF THE CASE

The Revenue appealed from the Allahabad High Court's common judgment quashing old-regime reassessment notices issued after the Finance Act, 2021 substituted the reassessment provisions with effect from 1 April 2021. The source identifies the common lead matter as Writ Tax 524/2021 with allied petitions; the SCR preface separately identifies Writ Tax 742/2021 for the captioned appeal. Similar rulings had been made by the Delhi, Rajasthan, Calcutta, Madras and Bombay High Courts. The judgment records approximately 90,000 notices and more than 9,000 writ petitions, with paragraph 4 attributing the notice figure and explanation of the Revenue's conduct to the Additional Solicitor General.

The background was extensions of time through notifications under section 3 of the Relaxation Act, 2020, including notifications dated 31 March and 27 April 2021 whose explanations purported to retain the former statutory provisions. Revenue officers relied on those explanations although the new regime had taken effect. The High Courts held that notices after 1 April 2021 were governed by the substituted law and quashed those challenged. The Delhi High Court also left further lawful steps open. The Supreme Court heard the Revenue and assessee counsel, including counsel appearing for parties before the Delhi High Court. Paragraph 9 records broad consensus on the remedial scheme. The judgment does not determine a particular escaped-income amount or identify an assessment year for the named respondent.

Source: [reported rendition / paragraphs 1-3.1; 4-5 / PDF pages 7, 8, 13, 14, 19 / judgment](#); [reported rendition / paragraphs 2.1; 4 / PDF pages 8, 19 / Revenue submission](#); [reported rendition / paragraphs 9 / PDF pages 23, 24 / judgment](#); [official signed judgment / paragraphs 1-3.1; 4-5 / PDF pages 4, 5, 6, 7, 8, 13, 14, 19, 20, 21 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court reviewed the old and substituted statutory provisions and the reform's purpose: reducing uncertainty and litigation while preserving reassessment where legally permissible. It endorsed the High Courts' conclusion that the benefit of the new regime applied even to earlier assessment years when the section 148 notice was issued on or after 1 April 2021. It did not uphold issuance of those notices under the former law as procedurally correct (paragraphs 3-7).

Section 148A introduced a pre-notice process: an enquiry if required, opportunity to answer the information, consideration of the response and a reasoned determination whether a section 148 notice should issue. The Court described the statutory safeguards, approval requirements and time limits as they stood in the Finance Act, 2021 scheme under examination. Its general description must be read with the statutory exceptions reproduced in paragraph 3.2; this note does not say every reassessment under every later statutory version invariably requires the same steps. Section 149's time-limit safeguards remained significant. The judgment did not decide the application of each limit to each assessee (paragraphs 6-7).

The Court nevertheless considered total termination of all proceedings inappropriate where reassessment could still lawfully be pursued. It described the officers' failure to apply the amendments as a bona fide mistake connected with the time-extension notifications and decided to provide limited transitional relief. Using Article 142, it converted the covered old section 148 notices into section 148A(b) show-cause notices, with specified disclosure and reply opportunities. Its express directions dispensed with the section 148A(a) enquiry requirement, if required, with prior approval as the specified one-time measure. Rajeev Bansal later held that the conversion also impliedly waived prior approval for the section 148A(b) show-cause stage; that later interpretation is separately described below. It did not dispense with the entire section 148A process or decide that every resulting section 148 notice must be valid (paragraphs 8-10).

The PAN-India order was designed to avoid thousands of repetitive appeals. It modified similar High Court judgments on this issue even if not separately appealed, and expressly governed pending writ petitions challenging similar notices. All available section 149 defences and other rights and contentions of both sides under the Finance Act, 2021 and law were kept open. The relief therefore supplies a procedural route, subject to preserved statutory limits, rather than a universal validation of reassessment or a final finding of escaped income (paragraphs 8(iv)-(v), 9-12).

Later decision reviewed: *Union of India & Ors. v. Rajeev Bansal*, [2024] 10 S.C.R. 1633 : 2024 INSC 754 (3 October 2024), interpreted and applied *Ashish Agarwal* in deciding the limitation and approval questions left open by the 2022 decision. It held that the directions cover all old-regime notices issued between 1 April and 30 June 2021, including those not challenged; the conversion operates from each original issue date as a section 148A(b) notice. It also held that conversion impliedly waived prior approval for section 148A(b), while

02 DISCUSSION BY THE HON'BLE COURT

approval under the new regime remained necessary for section 148A(d) and section 148 (Rajeev Bansal paragraphs 17, 79-81, 89-100).

Rajeev Bansal held that TOLA continued to relax qualifying deadlines after the 2021 substitution, subject to the new-law requirements and the first-proviso old-law ceiling. For the third proviso to section 149, it excluded the period from the deemed-notice issue date until supply of the relevant information/material under Ashish Agarwal, together with the two weeks allowed to respond. The ensuing section 148 notice had to be issued within the surviving time under the Act read with TOLA; notices beyond that time were invalid. Thus preservation of section 149 defences is not a finding that TOLA cannot apply, and conversion is still not blanket validation (Rajeev Bansal paragraphs 45-81, 94-114). This is a bounded assessment of that one later judgment; comprehensive subsequent-treatment and present-law status remain unverified.

Source: [reported rendition / paragraphs 3-3.3 / PDF pages 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 / quoted statutory text and background](#); [reported rendition / paragraphs 6-9 / PDF pages 20, 21, 22, 23, 24 / judgment](#); [official signed judgment / paragraphs 6-9 / PDF pages 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 / judgment](#); [reported rendition / paragraphs 17; 52-53; 65-81; 89-114 / PDF pages 28, 47, 53, 54, 55, 56, 57, 58, 59, 60, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76 / judgment](#); [official signed judgment / paragraphs 17; 52-53; 65-81; 89-114 / PDF pages 50, 74, 75, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111 / judgment](#)

03 JUDICIAL DECISION

The Revenue's appeals were partly allowed under the Article 142 scheme. The common Allahabad judgment and comparable High Court rulings were modified only to the extent specified, with no order as to costs.

1. The impugned notices issued under unamended section 148 that were the subject of the relevant writ petitions were deemed issued under the substituted section 148A and treated as section 148A(b) show-cause notices. The Assessing Officers had to supply the relied-upon information and material within thirty days from the judgment of 4 May 2022; assessees were to have two weeks thereafter to respond.
2. As a one-time measure for old-law section 148 notices issued from 1 April 2021 to the date of judgment, including quashed notices, the section 148A(a) enquiry requirement, if required, with prior approval was dispensed with. The judgment additionally notes that whether an enquiry is required ordinarily depends on the Assessing Officer; it does not abolish the other statutory procedural requirements.
3. Assessing Officers then had to pass section 148A(d) orders for the individual assessees. Only after following the section 148A process could they issue substituted section 148 notices, where legally justified; the order did not mandate issuance in every case.
4. All available defences, expressly including section 149, and all rights and contentions of the assessees and Revenue under the Finance Act, 2021 and law continued to be available.
5. The order applied PAN INDIA to similar High Court dispositions whether appealed or not and to pending writ petitions concerning similar post-1 April 2021 notices. It did not decide final tax liability or each notice's compliance with preserved statutory limits.

Source: [reported rendition / paragraphs 10-12 / PDF pages 24, 25 / judgment](#); [official signed judgment / paragraphs 10-12 / PDF pages 31, 32, 33, 34 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Mixed procedural result: Revenue obtained a route to continue under the substituted law; assessees retained the new-law safeguards and all available statutory defences

Revenue appeals partly allowed; High Court dispositions modified to the specified Article 142 extent; covered notices treated as section 148A(b) show-cause notices; no costs

Transitional procedural remedy decided; individual reassessment validity, limitation defences, escaped income and final tax liability not adjudicated

Exceptional PAN-India directions for the identified old-law notices and similar litigation; conversion is not universal validation, extension of every limitation period or permission to ignore sections 148A, 149 and 151.

Source: [reported rendition / paragraphs 8-12 / PDF pages 22, 23, 24, 25 / judgment](#); [official signed judgment / paragraphs 10-12 / PDF pages 31, 32, 33, 34 / judgment](#)

05 AKHB REVIEW POINT

For a transitional notice file, assemble the original notice, issue and service dates, the relevant High Court order or pending writ, the date and completeness of material supplied, the response, the section 148A(d) order, any later section 148 notice and the approval record. Treat the original notice as a show-cause stage only where the judgment's scheme applies. Analyse section 149 and every other available jurisdictional or procedural defence independently; paragraph 10(iv) expressly preserves them. Keep the one-time section 148A(a) dispensation separate from the remaining process and never describe the result as blanket revival or validation of all notices. Before advising on a live limitation issue, examine later Supreme Court treatment, subsequent amendments and the actual chronology; this historical note does not resolve those questions. No automatic mapping to the Income-tax Act, 2025 is made.

For the specific subsequent interpretation now reviewed, also apply Rajeev Bansal's holdings on unchallenged April-June 2021 notices, the section 148A(b) approval waiver, TOLA eligibility and the notice-specific surviving-time calculation. Its paragraph 113 still makes limitation and proper approval jurisdictional. This addition does not certify treatment after Rajeev Bansal or any present statutory version.

Source: [reported rendition / paragraphs 3.2; 6.4-6.6; 8; 10-12 / PDF pages 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25 / judgment; reported rendition / paragraphs 17; 52-53; 65-81; 89-114 / PDF pages 28, 47, 53, 54, 55, 56, 57, 58, 59, 60, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76 / judgment; official signed judgment / paragraphs 17; 52-53; 65-81; 89-114 / PDF pages 50, 74, 75, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111 / judgment](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 3005 of 2022 / Civil Appeal No. 3006 of 2022 / Civil Appeal No. 3009 of 2022 / Civil Appeal No. 3007 of 2022 / Civil Appeal No. 3008 of 2022 / Civil Appeal No. 3010 of 2022 / Civil Appeal No. 3013 of 2022 / Civil Appeal No. 3011 of 2022 / Civil Appeal No. 3012 of 2022 / Civil Appeal No. 3014 of 2022 / Civil Appeal No. 3015 of 2022 / Civil Appeal No. 3016 of 2022 / Civil Appeal No. 3017 of 2022 / Civil Appeal No. 3019 of 2022 / Civil Appeal No. 3020 of 2022 / Civil Appeal No. 3610 of 2022 / Civil Appeal No. 3604 of 2022 / Civil Appeal No. 3603 of 2022 / Civil Appeal No. 3607 of 2022 / Civil Appeal No. 3602 of 2022 / Civil Appeal No. 3608 of 2022 / Civil Appeal No. 3609 of 2022 / Civil Appeal No. 3605 of 2022 / Civil Appeal No. 3611 of 2022 / Civil Appeal No. 3606 of 2022

DETAILED DISPOSITION AND CONNECTED GROUPS

Time directions

Judgment date: 2022-05-04

Revenue disclosure: Relied-upon information and material within thirty days from the judgment

Assessee reply: Two weeks thereafter

One time enquiry dispensation: Old-law section 148 notices issued from 2021-04-01 to the judgment date, including those quashed by High Courts

Individual order: Section 148A(d) order after due process; any later section 148 notice remains subject to the statutory scheme and preserved rights

Note: This list records the judgment's historical directions. Read the separate Rajeev Bansal discussion for the later interpretation reviewed here. No new live compliance deadline or universal extension is supplied.

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

151A; 132; 132A; 133A; 153A; 153C

RELATED DECISIONS AND LIMITS

1.

Id: sc-2024-10-03-rajeev-bansal

Relationship: Explained and applied, with express determinations of PAN-India coverage, implied approval waiver, TOLA interaction and notice-specific limitation computation. No overruling of Ashish Agarwal is declared in the reviewed judgment.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

M. R. Shah, J.

STATUTORY REFERENCES AND THEIR SCOPE

1.

Provision: Income-tax Act, 1961, sections 147-151 before and after the Finance Act, 2021

Role: Core transitional reassessment scheme and procedural holding

Paragraphs: 3-4; 6-8; 10

2.

Provision: Income-tax Act, 1961, section 148A(b)

Role: Covered old-law section 148 notices deemed to be new-law show-cause notices; disclosure and reply directions

Paragraphs: 8(i); 10(i)

3.

Provision: Income-tax Act, 1961, section 148A(a)

Role: Enquiry requirement, if required, with prior approval dispensed with as a one-time measure for the specified notices

Paragraphs: 6.4-6.5; 8(ii); 10(ii)

4.

Provision: Income-tax Act, 1961, section 148A(d)

Role: Individual order after the statutory process before any substituted section 148 notice

Paragraphs: 8(iii); 10(iii)

5.

Provision: Income-tax Act, 1961, section 149

Role: Time-limit provision expressly preserved as an available defence; no individual limitation dispute resolved

Paragraphs: 3.2; 6.6; 8(iv); 10(iv)

6.

Provision: Income-tax Act, 1961, section 151

Role: Historical specified-authority/approval provisions in the scheme reviewed

Paragraphs: 3; 3.2; 6.4-6.5

7.

Provision: Relaxation Act, 2020, section 3 and notifications dated 31 March 2021 and 27 April 2021

Role: Background to the Revenue's reliance on the old reassessment provisions; the note does not independently determine notification vires or all limitation consequences

Paragraphs: 3.1; 4; 8

8.

Provision: Constitution of India, Article 142

Role: Express basis for the exceptional PAN-India remedial order and modification of similar High Court dispositions, including unappealed judgments and pending writ petitions

Paragraphs: 2.1; 9; 11

9.

Provision: Income-tax Act, 1961, sections 132, 132A, 133A, 153A and 153C

Role: Search/survey and related exceptions within statutory text quoted; not a finding that these occurred in the named respondent's case

Paragraphs: 3.2

10.

Provision: Income-tax Act, 1961, section 151A

Role: Consequential statutory amendment reproduced as background

Paragraphs: 3.3

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported rendition\)](#)

Identified source rendition: 25 PDF pages; SHA-256

671ff012268e289ceeda51acb4263848e28a0e039b2fda3fa1364f9e0f6242ed. Original bytes preserved.

[Open cited source rendition](#)

Full judicial text is SCR physical pages 7-25, paragraphs 1-12; earlier pages contain editorial headnote and preface. No neighbouring judgment contaminates the asset.

The SCR preface supplies all 25 appeal numbers; the official original leaves ten numbers blank and identifies the SLPs. This difference is disclosed and no missing original number is guessed.

The captioned appeal's Writ Tax 742/2021 reference in the SCR preface and the common judgment's Writ Tax 524/2021 reference in paragraphs 1 and 10 are kept distinct.

The table of eight High Court decisions in SCR paragraph 2, physical page 7, is image-based and missing from extracted text; it was visually checked and cross-checked with official original pages 5-6. The section 3 notification table on SCR physical page 13 was also visually checked.

No case-specific AY is supplied. Dates appearing in historical statutory quotations do not become factual assessment years.

The section 148A(a) dispensation is an exceptional one-time measure; the section 148A(b)/(d) steps and section 149/all other available defences remain explicit.

The operative direction uses thirty days from the judgment and two weeks thereafter. The note preserves those words rather than inventing a modern deadline or universal extension of the limitation statute.

PAN-India application covers the similar High Court rulings, including unappealed ones, and pending writ petitions specified in paragraphs 8-12; it is not a merits validation of every reassessment.

2022INSC510 is unverified index metadata; [2022] 3 S.C.R. 638 is the verified displayed citation.

Rajeev Bansal has now been reviewed for bounded cross-treatment. Its paragraph 80 establishes an implied section 148A(b) prior-approval waiver in addition to Ashish Agarwal's express section 148A(a) dispensation.

Rajeev Bansal construes the April-June 2021 PAN-India directions as covering unchallenged notices, while preserving application of statutory conditions and its surviving-time analysis. The historic Ashish operative wording is not silently rewritten to match a later decision.

The native paragraph numbers of Ashish Agarwal (including 10-11 in the reviewed original/SCR) differ from the reporting sequence quoted in Rajeev Bansal. Each decision must be cited using its own verified source numbering.

The statutory quotations remain historical. Rajeev Bansal is the only later decision assessed here; no comprehensive later-law or citator clearance is claimed.

SCR citation verified on physical page 1. Index neutral citation 2022INSC510 is not printed in either inspected judgment PDF and is not independently verified.

The judgment addresses a nationwide class of transitional reassessment notices and does not identify a specific assessment year for Ashish Agarwal or assign an AY to each connected appeal. Assessment-year dates within statutory quotations are not treated as the appeals' factual AYs.

The SCR jurisdictional preface lists 25 connected civil appeals. The official original cover names the first 15 numbers and leaves ten further civil-appeal numbers blank while identifying SLP(C) Nos. 6448, 5381, 5079, 6092, 6534, 6158, 6316, 6281, 6545 and 6038 of 2022; leave is granted in those matters. The added appeal numbers above are taken from the SCR preface, not inferred from the blank original cover. The SCR preface identifies the individual source proceeding as Writ Tax 742/2021 decided 30 September 2021; paragraphs 1 and 10 address the common Allahabad judgment in Writ Tax 524/2021 and allied cases.

STATUTORY SCOPE

Pre-1 April 2021 reassessment text and the Finance Act, 2021 substituted scheme as considered by the 4 May 2022 judgment

No independent consolidated current-statute audit, later limitation-rule certification or mapping to the Income-tax Act, 2025.

LATER TREATMENT

Source checked 2026-10-04. Later treatment has not been comprehensively checked. Union of India & Ors. v. Rajeev Bansal, 3 October 2024, has been fully reviewed for its specific interpretation and application of Ashish Agarwal; that bounded treatment is described in this note. No comprehensive citator status or current-law certification is made.

IDENTIFIED SOURCE LINKS

[reported rendition - Physical PDF page 1 / SCR page 638 - PDF pages: 25](#)

SHA-256: 671ff012268e289ceeda51acb4263848e28a0e039b2fda3fa1364f9e0f6242ed

[official signed judgment - PDF pages: 34](#)

SHA-256: 98c39587465ef2491f74b170bdbda109e845783a420eaa2914525bb68871e789

[reported rendition - Physical PDF page 1 / SCR page 1633 - PDF pages: 76](#)

SHA-256: 439111f46d4619d226ca3fc33f0e1e4776b37c86e36c75d13736e1a1653c2901

[official signed judgment - PDF pages: 112](#)

SHA-256: b4c697a4e5cdd638ba266666b836a5e1f54115cedc7ac505fe8dfa18d5b40459

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