



2025:AHC:228688-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 2021 of 2025

Dinesh Jain

.....Petitioner(s)

Versus

Union of India and another

.....Respondent(s)

Counsel for Petitioner(s)	: Ankit Saran
Counsel for Respondent(s)	: A.s.g.i., Anurag Sharma, Dhananjay Awasthi, Gaurav Mahajan

Court No. - 3

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE INDRAJEET SHUKLA, J.

1. Heard Sri Divyanshu Agrawal alongwith Sri Ankit Saran learned counsel for the petitioner, Sri Dhananjay Awasthi learned counsel for revenue and Sri Anurag Sharma learned counsel of the Union respondent.
2. Present petition has been filed to challenge the re-assessment proceedings initiated against the petitioner for the Assessment Year 2016-17, vide notice dated 06.06.2024.
3. *Dehors* the other merits, it has been strenuously urged that the said notice was wholly barred by limitation. Strong reliance has been placed on the decision of the Supreme Court in **Union of India and Others Vs. Rajeev Bansal (and other appeals), (2024) 469 ITR 46**. The aforesaid decision is the last pronouncement on the issue. Relevant to the submissions advanced here, we may usefully extract the contents of

paragraph 19, 45, 46, 48, 49, 50, 51 and 53 of the said decision. They read as below:

"19. Mr. N. Venkataraman, learned Additional Solicitor General of India, made the following submissions on behalf of the Revenue:

(a) Parliament enacted Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 as a free-standing legislation to provide relief and relaxation to both the assesseees and the Revenue during the time of covid-19. Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 seeks to relax actions and proceedings that could not be completed or complied with within the original time limits specified under the Income-tax Act;

(b) Section 149 of the new regime provides three crucial benefits to the assesseees : (i) the four-year time limit for all situations has been reduced to three years; (ii) the first proviso to section 149 ensures that re-assessment for previous assessment years cannot be undertaken beyond six years; and (iii) the monetary threshold of Rupees fifty lakhs will apply to the reassessment for the previous assessment years;

(c) The relaxations provided under section 3(1) of the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 apply “notwithstanding anything contained in the specified Act”. Section 3(1), therefore, overrides the time limits for issuing a notice under section 148 read with section 149 of the Income-tax Act;

(d) Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 does not extend the life of the old regime. It merely provides a relaxation for the completion or compliance of actions following the procedure laid down under the new regime;

(e) The Finance Act, 2021 ((2021) 432 ITR (Stat) 52) substituted the old regime for reassessment 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:

Assessment year (1)	Within 3 years (2)	Expiry of limitation read with TOLA for (2) (3)	Within six years (4)	Expiry of limitation read with TOLA for (4) (5)
2013-2014	31-3-2017	TOLA not	31-3-2020	30-6-2021

		<i>applicable</i>		
2014-2015	31-3-2018	<i>TOLA not applicable</i>	31-3-2021	30-6-2021
2015-2016	31-3-2019	<i>TOLA not applicable</i>	31-3-2022	<i>TOLA not applicable</i>
2016-2017	31-3-2020	30-6-2021	31-3-2023	<i>TOLA not applicable</i>
2017-2018	31-3-2021	30-6-2021	31-3-2024	<i>TOLA not applicable</i>

(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;*

(g) *Section 2 of the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 defines “specified Act” to mean and include the Income-tax Act. The new regime, which came into effect on April 1, 2021, is now part of the Income-tax Act. Therefore, Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 continues to apply to the Income-tax Act even after April 1, 2021; and*

(h) *Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] treated section 148 notices issued by the Revenue between April 1, 2021 and June 30, 2021 as show-cause notices in terms of section 148A(b). Thereafter, the Revenue issued notices under section 148 of the new regime between July and August 2022. Invalidation of the section 148 notices issued under the new regime on the ground that they were issued beyond the time limit specified under the Income-tax Act read with the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 will completely frustrate the judicial exercise undertaken by this court in Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.].*

45. *The first proviso to section 149(1)(b) provides thus:*

“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 possession of 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 immediately 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:”

46. *The ingredients of the proviso could be broken down for analysis as follows : (i) no notice under section 148 of the new regime can be issued at any time for an assessment year beginning on or before 1 April 2021; (ii) if it is barred at the time when the notice is sought to be issued because of the “time limits specified under the provisions of” section 149(1)(b) of the old regime. Thus, a notice could be issued under section 148 of the new regime for the assessment year 2021-2022 and before only if the time limit for issuance of such notice continued to exist under section 149(1)(b) of the old regime.*

48. *Notices have to be judged according to the law existing on the date the notice is issued. Section 149 of the old regime primarily provided two time limits : (i) four years for all situations; and (ii) beyond four years and within six years if the income chargeable to tax which escaped assessment amounted to rupees one lakh or more. After April 1, 2021, the time limits prescribed under the new regime came into force. The ordinary time limit of four years was reduced to three years. Therefore, in all situations, reassessment notices could be issued under the new regime if not more than three years have elapsed from the end of the relevant assessment year. For example, for the assessment year 2018-2019, the four-year period would have expired on March 31, 2023 under the old regime. However, if the notice is issued after April 1, 2021, the three-year time limit prescribed under the new regime will be applicable. The three-year time limit will expire on March 31, 2022.*

49. *The first proviso to section 149(1)(b) requires the determination of whether the time limit prescribed under section 149(1)(b) of the old regime continues to exist for the assessment year 2021-2022 and before. Resultantly, a notice under section 148 of the new regime cannot be issued if the period of six years from the end of the relevant assessment year has expired at the time of issuance of the notice. This also ensures that the new time limit of ten-years prescribed under section 149(1)(b) of the new regime applies prospectively. For example, for the assessment year 2012-2013, the ten-year period would have expired on March 31, 2023, while the six-year period expired on March 31, 2019. Without the proviso to section 149(1)(b) of the new regime, the Revenue could have had the power to reopen assessments for the year 2012-2013 if the escaped assessment amounted to rupees fifty lakhs or more. The proviso limits the retrospective operation of section 149(1)(b) to protect the interests of the assesseees.*

50. *Another important change under section 149(1)(b) of the new regime is the increase in the monetary threshold from rupees one lakh to rupees fifty lakhs. The old regime prescribed a time limit of six years from the end of the relevant assessment year if the income chargeable to tax which escaped assessment was more than rupees one lakh. In comparison, the new regime increases the time limit to ten years if the escaped assessment*

amounts to more than rupees fifty lakhs. This change could be summarized thus:

Regime	Time limit	Income chargeable to tax which has escaped assessment
Old regime	Four years but not more than six years	Rupees one lakh or more
New regime	Three years but not more than ten years	Rupees fifty lakhs or more

51. Given section 149(1)(b) of the new regime, reassessment notices could be issued after three years only if the income chargeable to tax which escaped assessment is more than rupees fifty lakhs. The proviso to section 149(1)(b) limits the retrospectivity of that provision with respect to the time limits specified under section 149(1)(b) of the old regime.

53. The position of law which can be derived based on the above discussion may be summarized thus : (i) section 149(1) of the new regime is not prospective. It also applies to past assessment years; (ii) The time limit of four years is now reduced to three years for all situations. The Revenue can issue notices under section 148 of the new regime only if three years or less have elapsed from the end of the relevant assessment year; (iii) the proviso to section 149(1)(b) of the new regime stipulates that the Revenue can issue reassessment notices for past assessment years only if the time limit survives according to section 149(1)(b) of the old regime, that is, six years from the end of the relevant assessment year; and (iv) all notices issued invoking the time limit under section 149(1)(b) of the old regime will have to be dropped if the income chargeable to tax which has escaped assessment is less than rupees fifty lakhs.

(ii) Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 can extend the time limit till June 31, 2021."

4. Upon reading of the above enunciation of law made by the Supreme Court arising on the strength of the statement made by the learned Additional Solicitor General of India, it cannot be doubted that with respect to Assessment Year 2016-17, the original period of limitation of six years expired on 31.03.2023. Second, as reasoned by the Supreme Court, no re-assessment notice may be issued to any assessee for any Assessment Year prior to Assessment Year 2021-22 unless the period of limitation under the unamended Act survived.

5. As noted above, here the Assessment Year is 2016-17. Therefore, as reasoned by the Supreme Court, in the first place, no re-assessment notice may have been issued under the new regime. Second, no such notice may in any case have been issued since the original/unamended

period of limitation i.e. six years had already lapsed before the issuance of the notice, on 06.06.2024.

6. The above reasoning offered by the Supreme Court is based on the concession made by the learned Additional Solicitor General of India, as is specifically recorded in paragraph-19 of the judgment of the Supreme Court. The other submissions attempted to be advanced by learned counsel for revenue may not be entertained as this Court may not reach a different conclusion as to the law, in face of the decision of the Supreme Court.

7. In view of the above, the matter admits of no doubt. The case of the petitioner is squarely covered by the aforesaid decision of the Supreme Court.

8. Accordingly, the writ petition is **allowed**. The re-assessment notice dated 06.06.2024 is quashed.

(Indrajeet Shukla,J.) (Saumitra Dayal Singh,J.)

December 18, 2025

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