IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 4824 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI
==

Approved for Reporting	Yes	No
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SHRI YANDUNANDAN PETROLEUM THROUGH ITS PROP. NARAN MOHAN SAVESETA
Versus
INCOME TAX OFFICER WARD 1
==
Appearance:
MR SAUBHAGYA MISHRA for MR. OM PRAKASH SHUKLA(18921) for the Petitioner(s) No. 1
MAUNIL G YAJNIK(9346) for the Respondent(s) No. 1
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CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 16/04/2026

ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE PRANAV TRIVEDI)

1. Heard learned advocate Mr. Saubhagya Mishra for Mr. Om Prakash Shukla for the petitioner and learned Senior Standing Counsel Mr. Maunil Yajnik for the respondent.

2. Rule returnable forthwith. Learned Senior Standing Counsel Mr. Maunil Yajnik waives service of notice on rule on behalf of the respondent.

3. This petition is filed under Article 226 of the Constitution of India challenging the notice under section 148 of the Income Tax Act, 1961 (For short “the Act”) dated 12.07.2022 on the ground that the notice would be invalid and time barred.

4. Brief facts of the case are that the respondent Assessing Officer issued notice dated 16.06.2021 under section 148 of the Act for the Assessment Year 2017-2018 during the extended time period as per The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 [(2020) 422 ITR (St.) 116] (For short "TOLA").

5. In view of the decision of Hon'ble Apex Court in case of *Union of India and others v. Ashish Agarwal* reported in (2022) 444 ITR 1 (SC), the aforesaid notice was to be treated as notice under section 148A(b) of the Act which has come into statute with effect from 01.04.2021.

6. The Hon'ble Apex Court in case of *Union of India v. Rajeev Bansal* reported in (2024) 469 ITR 46 (SC) 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 upto 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* (supra).

7. This Court in case of *Dhanraj Govindram Kella v. Income Tax Officer, Ward(2), Surendranagar* (Judgment dated 08.07.2025 rendered in Special Civil Application No.6387 of 2023 and allied matters) has considered in detail the submissions made by both the sides and has held as under:

> *"65. The alternative contention of the petitioner as to whether notices would be valid notice or invalid notice considering 'surviving time' between the date of the issuance of notices under TOLA and 30th June, 2021 or not is required to be considered and for that each matter has to be considered separately on the basis of the facts of case considering the date of issuance of notices under section 148 under TOLA by the Revenue and thereafter date of supplying information to the assessee and date of passing of order under section 148A(d) and date of issuance of notice under section 148 of the Act so as to consider whether issuance of notice under section 148 of the Act is within 'surviving time' as per the direction of Hon'ble Apex Court in case of* ***Rajeev Bansal*** *(supra) or not.*

66. So far as Assessment Years 2013-2014 and 2014-2015 are concerned, the period of three years from the end of the assessment year would be over prior to 20.03.2020 and the period of six years would be over between 20.03.2020 and 30.06.2021. Therefore, the notices issued under section 148 of the Act under old regime between 01.04.2021 and 30.06.2021 as per TOLA, will be a valid notice if the notice under section 148 of the Act under new regime is issued within the period of 'surviving time' as per the directions issued by Hon'ble Apex Court in case of ***Rajeev Bansal*** *(supra). For the Assessment Years 2016-2017 and 2017-2018 are concerned, the notice issued under section 148 of the Act under old regime between 01.04.2021 and 30.06.2021 under TOLA would be considered to be issued within three years from the end of the relevant assessment year as three years would complete within the period of 20.03.2020 and 30.06.2021.*

67. Therefore, in facts of these petitions, following data is required to be considered to find out 'surviving time' to decide as to whether the impugned notices under section 148 of the Act issued under the new regime as per the decision of Hon'ble Apex Court in case of ***Ashish Agarwal*** *(supra) would be valid notice or not in view of the decision of the Hon'ble Apex Court in case of* ***Rajeev Bansal*** *(supra):*

SCA NO	AY	Date of notice under section 148 under TOLA	No of days of surviving time available till 30.06.2021	Date of providing information under section 148A(b)
6387/2023	2013-2014	17.06.2021	13	26.05.2022
5688/2023	2014-2015	09.06.2021	21	23.05.2022
22260/2022	2016-2017	30.06.2021	1	23.05.2022
996/2023	2017-2018	30.06.2021	1	24.05.2022

SCA NO	Due date of filing reply	Date of reply:-	Date of order under section 148A(d) and notice under section 148:-	Last date for issuance of notice under section 148 as per surviving time:-
6387/2023	09.06.2022	04.06.2022	29.07.2022	22.06.2022
5688/2023	06.06.2022	-	27.07.2022	27.06.2022
22260/2022	07.06.2022	06.07.2022	30.07.2022	14.06.2022
996/2023	11.06.2022	10.06.2022	19.07.2022	18.06.2022

68. It is apparent from the above details that impugned notice under section 148 of the Act is issued beyond the period of 'surviving time' as per the direction of Hon'ble Apex Court in case of ***Rajeev Bansal*** *(supra)and therefore, such notices would be invalid notices.*

69.The impugned notices issued under section 148 of the Act are accordingly quashed and set aside being invalid having been issued *beyond the 'surviving time'. Accordingly, impugned orders passed under section 148A(d) of the Act would also not survive and are accordingly, quashed and set aside. Subsequent proceedings, if any, undertaken by the respondent would not survive and are also quashed and set aside.*

70. Rule is made absolute to the aforesaid extent. No order as to costs."

8. In the facts of the case, the respondent Assessing Officer has provided information pursuant to the directions issued by the Hon'ble Apex Court in case of *Ashish Agarwal* (supra) on 20.05.2022 and therefore, considering 15 days' time to file reply by the assessee, the due date would be 04.06.2022. No reply is filed by the petitioner. The order under section 148A(d) of the Act was passed on 10.07.2022 as well as notice under section 148 of the Act was issued on 12.07.2022. However, considering the period of limitation from the date of issuance of notice under section 148 read with TOLA upto 30.06.2021, the limitation for issuance of notice under section 148 of the Act applying the decision of Hon'ble Apex Court in case of *Ashish Agarwal* (supra) as well as *Rajeev Bansal* (supra), would be 18.06.2022.

9. Learned Senior Standing Counsel Mr. Maunil Yajnik has verified the above dates and could not controvert the same.

10. In view of above, the impugned notice dated 12.07.2022 issued under section 148 of the Act would be invalid notice as the said notice is issued after 18.06.2022 as per the decision of Hon'ble Apex Court in case of ***Ashish Agarwal (supra)***. Therefore, the impugned notice having been issued beyond the 'surviving time' would be invalid notice as held by the Hon'ble Apex Court in case of ***Rajeev Bansal (supra)*** in the following paragraph no. 114 (g) and (h) of the judgment:

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

xxx

(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 April 1,

2021 and June 30, 2021 till the supply of relevant information and material by the Assessing Officers to the assessees in terms of the directions issued by this court in Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] , and the period of two weeks allowed to the assessees 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 the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. All notices issued beyond the surviving period are time barred and liable to be set aside."

11. In view of foregoing reasons, impugned notice dated 12.07.2022 is hereby quashed and set aside and all consequential proceedings i.e. the impugned order passed under Section 147 read with Section 144B of the Act dated 27.04.2023 and demand notice are also quashed and set aside. Rule is made absolute to the aforesaid extent.

(A. S. SUPEHIA, J)

(PRANAV TRIVEDI,J)

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