

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 14368/2025

Sachin Panchal Son Of Mr. Rakam Singh, Aged About 41 Years,
Residing At D-628, Gali No.-13, Block-D, Vijay Panchal Marg,
Ashok Nagar, Delhi- 110093

-----Petitioner

Versus

1.

The Deputy Commissioner Of Income Tax, Central Circle-I, Jeevan Nidhi-2, LIC Building, Ambedkar Circle, Jaipur, Rajasthan-302005.
2.

Principle Commissioner Of Income Tax (Central), Jaipur, Rajasthan New Central Revenue Building, Bhagwan Dass Road, Statue Circle, Jaipur
3.

The Income Tax Officer, Ward 60(1), Vikas Bhawan, IP Estate, Delhi, Delhi- 110002.
4.

The Principal Chief Commissioner Of Income Tax, Delhi-4, CR Building, IP Estate, New Delhi, Delhi- 110002.
5.

The Central Board Of Direct Taxes, Through Chairman Department Of Revenue, Ministry Of Finance, Government Of India, Having Its Address At North Block, New Delhi.

-----Respondents

For Petitioner(s)

:

Mr. Inder Paul Bansal with
Ms. Dimple Sharma and
Mr. Virendra Singh Shekhawat

For Respondent(s)

:

Mr. Siddharth Bapna with
Ms. Tanushka Saxena

HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU

Judgment

RESERVED ON : **07/11/2025**

PRONOUNCED ON : **14/11/2025**

(Per Hon'ble the Acting Chief Justice)

1.

The petitioner is an individual assessee and has preferred this petition with regard to Assessment Year 2015-16. Notice has

been issued for reassessment proceedings under Section 148 of the Income Tax Act, 1961 (for brevity, 'the Act') on 28.08.2024.

2. It is stated that for the AY 2015-16 the original return of income has been filed under Section 139 of the Act on 22.08.2015. Statutory period for reassessment expired on 31.03.2022, which is six years. The impugned notice was, however, issued on 28.08.2024 and is, therefore, time barred and without jurisdiction.

3. Learned counsel for the petitioner has relied on the judgment passed in the case of ***Union of India v. Rajeev Bansal (2025) 175 taxmann.com 101 (Delhi)***, wherein the revenue considered that reassessment notices issued after 01.04.2021 for the AY 2015-16 ought to be dropped as the relaxation under the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (for short, 'TOLA') was not applicable. It was submitted that the limit of ten years under the new regime would apply prospectively and not to the period prior to 2021-22. He also relies on the judgment passed by this court in the case of ***Late Shri Rafiq Ahmed Querashi v. Central Board of Direct Taxes & Anr., D.B. Civil Writ Petition No.3667/2023, decided on 27.01.2025 [2025:RJ-JP:3775-DB]***.

4. He further submits that the alleged escaped income is below the statutory threshold of Rs.50 Lakhs which is required to invoke the extended ten years limitation period because the petitioner's share in the transaction is only 7.31% and not 25%. It is stated that as per the reply, determinable amount is Rs.44,29,225.78,

whereas show cause notice shall mention the amount of Rs.1,51,47,831/- and, therefore, reassessment could be taken only within three years.

5. The revenue has contested the case and submitted that territorial jurisdiction of the case would not lie at Jaipur as the reassessment notice dated 28.08.2024 was issued by the Income Tax Officer, Ward 60(1), Delhi and approved by the respondent No.4. It is further stated that even the petitioner himself is based within the territorial jurisdiction of Delhi and the cause of action would arise out of notice issued by the officer falling under the territorial jurisdiction of Delhi High Court.

6. It is further submitted that the show cause notice was issued on 28.08.2024, but the writ petition has been filed on 11.09.2025 which is after a lapse of more than one year and therefore, suffers from delay and latches.

7. On merits, it has been further objected to the challenge to Notice under Section 148 of the Act which is only the issuing of proceedings and have not been concluded. It is stated that the petition is, therefore, premature and even the final order, if so passed, would be appealable and writ jurisdiction ought not be invoked for the said purposes at the stage of show cause notice.

8. It is further submitted that the statutory time line for opening reassessment in the case of the petitioner was within time and cannot be said to be time barred. It is pointed out that the show cause notice has been initiated in pursuance of said proceedings and as per the provisions of Section 149 of the

Amended Act, the limitation for undertaking reassessment proceedings for years prior to 01.04.2021 are to be undertaken as per the unamended Act. In view of AY 2015-2016, the provisions of Section 153C r.w. 153A would have their application. The provisions clearly allow reopening of assessment upto ten years prior to assessment years from the date of such proceedings or from the date of handing over of such material to the jurisdictional Assessing Officer as laid down in Explanation-I to Section 153A of the Act. It is, therefore, submitted that reassessment proceedings are within the time limitation in terms of Section 153C r.w. 153A of the Act.

9. Learned counsel for the respondents has invited attention to the Proviso to Section 149(1)(b) of the Amended Act to submit that the proceedings have been initiated well within the limitation and would, therefore, be legal and valid. It has been further stated that from the information unearth in the case of the petitioner during the course of such proceedings, it was revealed that an income amounting to Rs.1,51,47,831/- had escaped assessment for the AY 2015-2016. Proviso to Section 149(1)(b) of the Act, as per Explanation-I to Section 153A provides, in cases where there is escapement of income amounting to more than Rs.50 Lakhs the reassessment proceeding can be opened up till ten years.

10. He submits that the law laid down by the Apex Court in the case of ***Union of India Vs. Rajeev Bansal*** (supra) would have no application to the present case as the same related to

assessment proceedings only and while in the present case, the issues are relating to search related cases. It is further submitted that the present case would be governed by the new self contained provisions relating to specific clauses wherein as per Explanation-2(iv) to Section 148 of the Act carves out matters relating to search cases.

11. We have considered the submissions.

12. It is a case where petitioner has been served with a Notice under Section 148 of the Act relating to AY 2015-2016 issued on 24.08.2024. A search had been conducted under Section 132 of the Act. In the case of SKR Group wherein the books of accounts and documents seized related to the petitioner which reflected that there had been an escape of income. Notice was stated to be issued within time and covered under Section 149(1) of the Act. From the seized material of SKR Group, the evidence containing record of cash payment was found from the multiple data sources, which included printouts and diaries and it was found that the DCIT, Central Circle-1, Jaipur in its report dated 07.08.2024 submitted that assessee-petitioner had also done partnership with SKR Group along with other partners and therefore, investment of the petitioner in Sky Angan Phase-II was assessed as Rs.1,28,02,662/-.

13. The petitioner's contention is basically on the basis of law laid down by the Supreme Court in the Case of ***Union of India Vs. Rajeev Bansal*** (supra) and to contend that the notice is time barred. For the said purpose, it would be apposite to quote the

provisions of Section 149 of the Act which lay down the time limit for notice as it would apply w.e.f. 01.04.2021 and applicable till amendment was made on 31.08.2024. After 01.09.2024, the provisions of Section 149 of the Act laying down time limit for notice under Section 148 and 148A of the Act were substituted. Presently, as the notice was issued on 24.08.2024, the time limit for notice as is existed under Section 149 of the Act prior to 01.09.2024 would have its application.

14. After amendment under the Finance Act, 2021, Section 149 of the Act reads as under:

"149. Time limit for notice- (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-

(i) an asset;

(ii) expenditure in respect of a transaction or in relation to an event or occasion; or

(iii) an entry or entries in the books of account,

which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more:

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 a notice under section 148 or section 153A or section 153C 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 or section 153A or section 153C, as the case may be, 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 cases referred to in clauses (i), (iii) and (iv) of Explanation 2 to section 148, where,-

(a) a search is initiated under section 132; or

(b) a search under section 132 for which the last of authorisations is executed; or

(c) requisition is made under section 132A,

after the 15th day of March of any financial year and the period for issue of notice under section 148 expires on the 31st day of March of such financial year, a period of fifteen days shall be excluded for the purpose of computing the period of limitation as per this section and the notice issued under section 148 in such case shall be deemed to have been issued on the 31st day of March of such financial year.

Provided also that where the information as referred to in Explanation I to section 148 emanates from a statement recorded or documents impounded under section 131 or section 133A, as the case may be, on or before the 31st day of March of a financial year, in consequence of,-

(a) a search under section 132 which is initiated; or

(b) a search under section 132 for which the last of authorisations is executed; or

(c) a requisition made under section 132A,

after the 15th day of March of such financial year, a period of fifteen days shall be excluded for the purpose of computing the period of limitation as per this section and the notice issued under clause (b) of section 148A in such case shall be deemed to have been issued on the 31st day of March of such financial year.

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 does not exceed 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.

Explanation.- For the purpose of clause(b) of this sub-section, "asset" shall include immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account.

(1A) Notwithstanding anything contained in sub-section (1), where the income chargeable to tax represented in the form of an asset or expenditure in relation to an event or occasion of the value referred to in clause(b) of sub-section(1), has escaped the assessment and the investment in such asset or expenditure in relation to such event or occasion has been made or incurred, in more than one previous years relevant to the assessment years within the period referred to in clause(b) of sub-section(1), a notice under section 148 shall be issued for every such assessment year for assessment, reassessment or recomputation, as the case may be.

(2) The provisions of sub-section(1) as to the issue of notice shall be subject to the provisions of section 151."

15. The sole question before this Court is whether the notice which has been issued to the petitioner on 23.08.2024 can be said to be beyond the jurisdiction and time barred in the facts and circumstances of the case?

16. On a plain reading of the aforesaid provisions of Section 149 of the Act, it is apparent that Section 149 lays down the timeline for issuance of notice under Section 148 and 148A of the Act for reassessment. On a look at Second Proviso to Section 149 of the Act, it is apparent that the period as laid down under Section 149 would not apply in cases, where the notice under Section 153A or Section 153C r.w. Section 153A of the Act is required to be issued in relation to search conducted under Section 132 of the Act on or before 31.03.2021. Placing reliance on Second Proviso, the arguments being advanced by the learned counsel for the petitioner is that since after 01.04.2021, the provisions of Section 153C of the Act would have no application, therefore, the period as prescribed under Section 153C or, for that matter, under Section 153A would also not apply and merely mentioning Proviso to Section 149 would not bring the notice within the limitation.

17. However, we notice that the search was conducted of SKR Group on 19.05.2023 under Section 132 of the Act and documents were seized which reflected escaping of income for the AY 2015-2016, while the proceedings under Section 153C of the act were, admittedly, not required to be conducted in relation to the search which was conducted after the cut off date (supra), we find that First Proviso to Section 149 allows notice to be issued for such

escaping of income and reassessment can be done. As the Proviso allows notice under Section 148 in the amended provision to be issued if the same could have been issued under the old provision of Section 153A and 153C of the Act.

18. Prior to the amendment, in case of search, the assessment relevant to previous year in which search was conducted would be treated as the relevant assessment year and proceedings as per Explanation-I to Section 153A of the Act could be conducted for six assessment years, but not later than ten assessment years from the relevant assessment year. Section 153C of the Act allows such assessment relating to third person and the assessment years would be the same as per explanation given under Section 153A of the Act. Thus, if we read all the provisions together including amended Section 149, it is apparent that the time limit for issuing notice under Section 148 as per amended provisions has to be the same as in cases which could have been initiated under Section 153C r.w. 153A of the Act.

19. A simple reading of the provisions, therefore, in relation to search cases, would be that while time limitation would be the time as prescribed under Section 153A, reassessment has to be done in terms of Section 148, as amended, for any income found to have escaped assessment for last ten assessment years. The Assessing Officer was, therefore, justified in reopening the assessment of AY 2015-2016 of the assessee petitioner as it falls within ten years period.

20. Thus, keeping in view our findings, as above, we held that the time limit for notice, as provided under Section 149 as amended w.e.f. 01.04.2023, would apply and as per Section 149(1)(b), re-assessment can be initiated to the maximum period upto ten years from the end of the relevant assessment year.

21. With regard to the arguments advanced by the petitioner relating to the amount of Rs.50 Lakhs, we find that the information and documents reveal an escape of amount of Rs.1,51,47,831/- and thus, it cannot be said that the said was below Rs.50 Lakhs. On both counts the writ petition, therefore, fails.

22. Considering that the search was conducted at Jaipur and we have examined the case on merits and during the course of arguments the learned counsel for the revenue has not taken up the arguments relating to jurisdiction (although it was noted as part of the pleadings hereinabove), we would not go into the said aspect. Our view is also supported by the judgment in ***Devika Construction and Developers (P.) Ltd. Vs. Principal Chief Commissioner of Income Tax: (2024) 464 ITR 708 (Jharkhand)*** wherein similar view has been taken by the Jharkhand High Court.

23. Accordingly, the writ petition fails and is hereby, dismissed.

24. All pending applications also stand disposed of.

25. No costs.