

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 5561 of 2023**

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PATEL RAJNI MOHANBHAIPADALIA
Versus
INCOME TAX OFFICER, WARD 1(2)(1), RAJKOT & ANR.

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Appearance:
MR FENIL H MEHTA(11663) for the Petitioner(s) No. 1
KARAN G SANGHANI(7945) for the Respondent(s) No. 1
MRS KALPANA K RAVAL(1046) for the Respondent(s) No. 2

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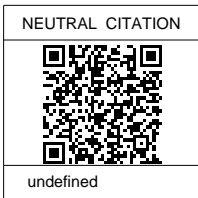
CORAM: HONOURABLE MR. JUSTICE BHARGAV D. KARIA
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 25/08/2025

ORAL ORDER
(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

1. Heard learned advocate Mr. Fenil H. Mehta for the petitioner and learned Senior Standing Counsel Mr. Karan G. Sanghani for the respondents.

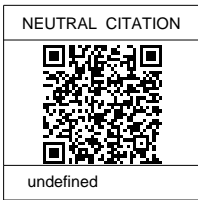
2. The petitioner has challenged notices issued under section 148 of the Income Tax Act, 1961 (for short "the Act") for the



Assessment Year 2015-2016 under the old regime in view of TOLA without issuing notice under section 148A(b) as required to be issued with effect from 01.04.2021.

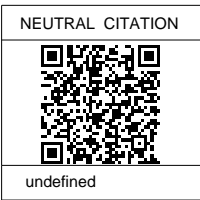
3. Notice under section 148 under Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 [(2020) 422 ITR (St.) 116] (For short "TOLA") was issued on 19.04.2021 whereas notice under section 148A(b) of the Act after judgment in case of **Union of India and others v. Ashish Agarwal** reported in (2022) 444 ITR 1 (SC) was issued on 24.05.2022.

4. The respondent Assessing Officer has issued notice under section 148 of the Act after 31.03.2021 on the pretext that due to operation of TOLA, time limit for



issuance of notice would be extended upto 30.06.2021.

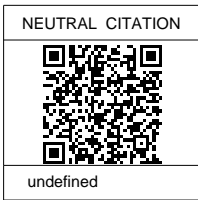
5. Thereafter, considering the decision of Hon'ble Apex Court in case of **Ashish Agarwal** (supra), notice issued under section 148 between 01.04.2021 and 30.06.2021 for Assessment Year 2015-2016 was deemed to be notice under section 148A(b) of the Act which has come into operation with effect from 01.04.2021 and thereafter as per the direction issued by the Hon'ble Apex Court in case of **Ashish Agarwal**(supra) department has issued the notices under section 148 of the Act between the month of July,2022 and August, 2022 after following the procedure of inviting reply and passing order under section 148A(d) of the Act.



6. The petitioners challenged such notices issued by the respondent Assessing Officer for Assessment Year 2015-2016 pursuant to the order of Hon'ble Apex Court in case of **Ashish Agarwal**(supra).

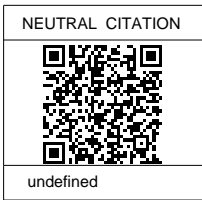
7. During the pendency of these petitions, similar notices which were issued for Assessment Years 2013-2014 to 2017-2018 came up for consideration on the ground of delay as well as on the ground of getting valid sanction before this Court and other High Courts. This Court in case of **Keenara Industries (P.) Ltd vs. ITO** reported in [2023] 147 taxamann.com 585 (Guj) allowed such petitions.

8. The matter was carried to Hon'ble



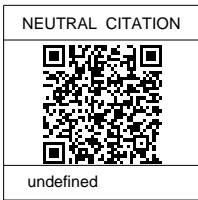
Supreme Court. Hon'ble Supreme Court in case of **Union of India v. Rajeev Bansal** reported in (2024) 469 ITR 46 (SC) decided the issues raised with regard to delay as per the provisions of section 149 of the Act which has come into operation after 01.04.2021 as well as validity of sanction granted under section 155 of the Act.

9. During the course of hearing before the Hon'ble Apex Court, Revenue conceded to the effect that so far as Assessment Year 2015-2016 is concerned, Revenue could not have issued the notices under section 3(1) of TOLA as considering the time period as prescribed under section 149 of the Act with effect from 01.04.2021, three years would be over on 31.03.2019 which is prior to coming into force of TOLA and six



years would be completed on 31.03.2022 which is after operation of TOLA. In such circumstances, notices for Assessment Year 2015-2016 are held to be invalid by Hon'ble Apex Court in case of **Rajeev Bansal**(supra).

10. The Hon'ble Apex Court followed the decision of **Rajeev Bansal**(supra) in case of **Deepak Steel and Power Ltd vs. Central Board of Direct Taxes** reported in [2025] 174 taxmann.com 144 (SC) and after recording the concession of the learned advocate for the department and in view of the concession given before the Apex Court by learned advocate appearing for the Revenue as recorded in para 19(f) of the judgment in case of **Rajeev Bansal** (supra), has quashed and set aside the notice



issued after 31.03.2021 under TOLA for
A.Y. 2015-16 as under:

"1. Leave granted.

2. These appeals arise from the order passed by the High Court of Orissa at Cuttack in Writ Petition (C) Nos. 2446 of 2023, 2543 of 2023 dated 1.2.2023 and 2544 of 2023 dated 10.02.2023 respectively by which the High Court disposed of the original writ petitions in the following terms:-

"1. The memo of appearance filed by Mr. S. S. Mohapatra, learned Senior Standing Counsel for Revenue Department on behalf of Opposite Parties is taken on record.

2. In view of the order passed by this Court on 1st December, 2022 in a batch of writ petitions of which W.P.(C) No.9191 of 2022 (Kailash Kedia v. Income Tax Officer) was a lead matter and the subsequent order dated 10th January, 2023 passed in W.P.(C) No.36314 of 2022 (Shiv Mettalicks Pvt. Ltd., Rourkela v. Principal Commissioner of Income Tax, Sambalpur), the Court declines to entertain the present writ petition, but leaves it open to the Petitioner to raise all grounds available to the Petitioner in accordance with law including the grounds urged in the present petition at the appropriate stage as



explained by the Court in those orders.

3. The writ petition is disposed of in the above terms."

3. We heard Mr. Saswat Kumar Acharya, the learned counsel appearing for the appellants(assessee) and Mr. Chandrashekhar, the learned counsel appearing for the revenue.

4. The learned counsel appearing for the revenue with his usual fairness invited the attention of this Court to a three judge bench decision of this Court in Union of India and Ors. v. Rajeev Bansal, reported in 2024 SCC OnLine SC 2693, more particularly, paragraph 19(f) which reads thus:-

"19. (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."

5. As the revenue made a concession in the aforesaid decision that is for the assessment year 2015-2016, all notices issued on or after 1st April, 2021 will have to be dropped as they would not fall for completion during the period



prescribed under the taxation and other laws (Relaxation and Amendment of certain Provisions Act, 2020). Nothing further is required to be adjudicated in this matter as the notices so far as the present litigation is concerned is dated 25.6.2021.

6. In view of the aforesaid, in such circumstances referred to above the original writ petition nos.2446 of 2023, 2543 of 2023 and 2544 of 2023 respectively filed before the High Court of Orissa at Cuttack stands allowed.

7. The impugned notice therein stands quashed and set aside.

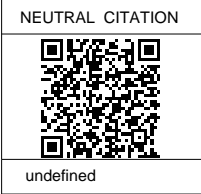
8. The relief in terms of prayer (a) is granted.

9. The appeals stand disposed of in the above terms.

10. Pending application(s), if any, stand disposed of."

11. Similar orders are also passed by the Apex Court in the following cases:

**1) Assistant Commissioner of Income Tax,
Circle 19(1) and ors vs. Nehal Ashit Shah**



in Special Leave Petition (Civil) Diary
No. 57209/2024;

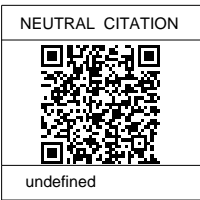
2) **The Income Tax Officer Ward 1(2)
Jaipur vs. R.K.Build Creations Private
Limited** in Special Leave Petition (Civil)
Diary No. 59625/2024.

12. The Delhi High Court has also passed
the similar order in following cases:

1) **Bhagwan Sahai Sharma vs. Deputy
Commissioner of Income Tax** reported in
[2025] 174 taxmann.com 14 (Delhi)

2) **Lalit Gulati vs. Assistant
Commissioner of Income Tax** reported in
[2025] 174 taxmann.com 273 (Delhi);

13. The Punjab and Haryana High Court has



taken similar decision in case of **Jay Jay Agro Industries vs. Income Tax Officer, Ward-I, Karnal & Anr** in CWP 7405/2025

14. Rajasthan High Court has also taken similar decision in case of **Shreyansh Mehta S/o Shri Shanti Lal Mehta, vs. Income Tax Officer, Udaipur** in Civil Writ Petition No. 3299/2023.

15. Karnataka High Court has also taken similar decision in case of **Shri Siddaiah Gurappaji vs. The Assistant Commissioner of Income Tax and ors** in Writ Petition No. 20292 of 2023.

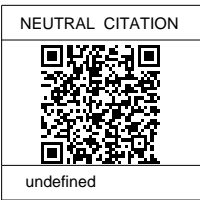
16. This Court also in case of **Mayurkumar Babubhai Patel v. Assistant Commissioner of Income Tax, Circle 3(1)(1), Ahmedabad and another** (order dated 17.06.2025



rendered in Special Civil Application No.3154 of 2022 and allied matters) has held as under:

"15. Considering the facts of the case, it is not in dispute that the respondent-Assessing Officer has issued the notice under section 148A(b) of the Act after the period of six years were over on 31.03.2022. As observed by the Hon'ble Apex Court in case of Deepak Steel and Power Ltd(Supra) and in view of the concession made by the Revenue before the Apex Court for the Assessment Year 2015-16, all the notices issued on or after 01.04.2021 will have to be dropped as they would not fall for completion during the period prescribed under the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and therefore, nothing further is required to be adjudicated in the matters as the notice so far as the present petitions are concerned, though dated 31.03.2021, admittedly have been issued after 01.04.2021.

16. It is also not in dispute that the notices under section 148A(b) have been issued pursuant to the decision of the Hon'ble Apex Court in Ashish Agarwal (supra) dated 04.05.2022 admittedly after 31.03.2022. Therefore, on both counts, the notices issued under section 148 of the Act dated 27/28/29.07.2022 would be time



barred.”

17. In view of above, for the foregoing reasons, the petition is allowed. The impugned notice issued under section 148 of the Act for Assessment Year 2015-2016 is held to be invalid as same was issued during the extended period from 01.04.2021 to 30.06.2021 under TOLA.

18. Petition is accordingly disposed off.

(BHARGAV D. KARIA, J)

(PRANAV TRIVEDI, J)

RAGHUNATH R NAIR