



2026:CGHC:24328-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

TAXC No. 127 of 2025

Deputy Commissioner Of Income Tax Circle -1(1) Raipur, Chhattisgarh.

... Appellant (s)

versus

Silverleaf Infrastructure Pvt. Ltd. Subhash Road, Ganjpara, Raipur,
Chhattisgarh. Pan No. - AALCS0149J

... Respondent(s)

For Appellant : Mr. Ajay Kumrani, Advocate

**D.B. : Hon'ble Shri Justice Parth Prateem Sahu &
Hon'ble Shri Justice Sachin Singh Rajput**

Judgment on Board

16/06/2026

Per Parth Prateem Sahu, J.

1. This appeal under Section 260-A of the Income Tax Act, 1961 (hereinafter referred to as "the *Act of 1961*") is filed by appellant-Revenue, challenging sustainability and legality of the order dated 29.11.2024 passed by Income Tax Appellate Tribunal, Raipur Bench, Raipur (hereinafter referred to as "*ITA7*") in Income Tax Appeal (ITA) No.169/RPR/2023 arising out of order dated 14.03.2023 passed by the

Commissioner of Income Tax (Appeals) Raipur for assessment year 2010-11.

2. Facts relevant for disposal of this appeal are that respondent-Assessee, which is engaged in business of construction work and real estate, filed return of income for assessment year 2010-11 on 09.07.2010 declaring total income/loss of Rs.(-)27,135/-. Revenue has conducted a survey under Section 133-A of the Act of 1961 in premises of Goldbricks Infrastructure Pvt. Ltd (in short "GIPL") group on 28.02.2016. During course of survey, it revealed that GIPL group comprises of several companies in which Rakesh Saraogi and his wife Babita Saraogi are Directors. Case of respondent- assessee was re-opened and notice under Section 148 of the Act of 1961 was issued on 28.03.2017. Assessment in terms of Section 143 (3) read with Section 147 of the Act of 1961 was completed on 31.12.2018 computing total income of Rs.5,39,72,865/- after making addition of Rs.5,40,00,000/-. Aggrieved with assessment order under Section 143 (3) read with Section 147 of the Act of 1961 dated 31.12.2018, assessee preferred appeal before the National Faceless Assessment Centre (NFAC), Delhi. Appeal preferred by the assessee was allowed by the Commissioner of Income-tax (Appeals) [for short "*CIT (A)*"], NFAC Delhi, vide its order dated 14.03.2023 on the ground No.1-revised ground No.4. Order passed by CIT (A) in appeal was further challenged by Revenue before the ITAT in ITA No.169-RPR/2023 along with two other ITAs bearing ITA No.200/RPR/2022 and ITA No.234/RPR/2022. ITAT by common order has dismissed all the three ITAs as referred above taking lead case No. 200/RPR/2022 and made

the said order applicable to other two cases also by impugned order. It is this order of ITAT which is put to challenge by the Revenue in this appeal.

3. Learned counsel for the appellant-Revenue would submit that the impugned order passed by ITAT is bad in law and suffers from perversity and illegality. It is further submitted that CIT (A) as also ITAT while arriving at conclusion that order dated 31.12.2018 passed under Section 143 (3) read with Section 147 of the Act of 1961 to be beyond the period of limitation as provided under Section 153 (2), *Explanation-1* (ii) of Section 153 and *First* proviso to *Explanation -1* of Section 153, has failed to consider the order passed by jurisdictional High Court in a writ petition filed by Assessee bearing WPT No.359 of 2017 dated 14.12.2017 wherein High Court has granted interim relief in favour of assessee. Authority also failed to take into consideration the observation made by jurisdictional High Court while disposing of writ petition vide order dated 10.07.2018, that *proceedings may be concluded within reasonable time*. The period during which the proceedings are pending before the High Court with interim order has to be excluded and have concluded erroneously that the order under Section 143 (3) read with Section 147 of the Act of 1961 to be barred by limitation and bad in law. He contended that in the aforementioned facts of case question of law would be :

“Whether the Income Tax Appellate Tribunal erred in law in holding the reassessment order dated 30.12.2018 to be barred by limitation under Section 153 of the Income Tax Act 1961 without appreciating the legal effect of the directions issued by the Hon’ble

High Court in WPT No.327 of 2017 and connected matters and the consequent exclusion of time available to the Assessing Officer for completing the reassessment proceedings ? ”

4. We have heard learned counsel for the appellant -Revenue on admission. Dates and events as recorded by CIT (A) as also by ITAT are not in dispute. Writ petition was disposed of on 10.07.2018.

Operative portion of order is extracted before for ready reference:

“14. As a fallout and consequence of the aforesaid discussion, the rebuttal order dated 2-8-2017 is quashed and the Assessing Officer is directed to furnish reasons to believe within a period of six weeks and thereafter, the petitioners will file objections within four weeks and thereafter, the Assessing Officer consider and dispose of the objections by a speaking order within reasonable time, in accordance with law.”

5. Before proceeding further, we find it appropriate to have a glance at the relevant applicable provisions under the Act of 1961. Section 153 (2) of the Act of 1961 provides that “no order of assessment, re-assessment or recomputation shall be made under Section 147 after the expiry of nine months from the end of the financial year in which the notice under Section 148 was served. *Explanation- 1* further provides that “for the purpose of computing the period of limitation under this Section, period during which the assessment proceeding is stayed by an order or injunction of any court, shall be excluded”. *First* proviso as appended to *Explanation* No.-1 further provides that “where immediately after the exclusion of the aforesaid period, the period of limitation referred to in sub-sections (1), (1A), (2), (3) and

sub-section (8) available to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.

6. CIT (A) as also ITAT have taken into consideration the same arguments as raised before this Court and ITAT has also extracted dates and events in para-14 of impugned order, contents of which is not disputed. The said date and particulars with remarks are extracted below for ready reference:

“

S.N.	Particulars	Remarks
1.	Date of issue of notice u/s 148	28.03.2017 (page 2, first para of assmt. Order)
2.	Limitation u/s 153(2) expiring on	31.12.2017 (nine months from end of FY in which notice u/s 148 served)
3.	Stay order passed by Hon'ble High Court on	14.12.2017 (PN 222 & 223 of PB, Vol. I)
4.	Number of days left as per original limitation	17 days
5.	Final order passed by Hon'ble High Court on	10.07.2018 (PN 224 TO 233 of PB, Vol. I)
6.	Directions of Honb'ble High Court	Page no. 233 of PB, Vol. I, Para 14. 1. AO to provide reasons within 6 weeks. 2. Assessee to file objection within 4 weeks. 3. AO to consider & dispose off objections within a reasonable time, in accordance with law.
7.	Period of stay granted by High Court, to be excluded for limitation	From 14.12.2017 to 10.07.2018
8.	Extended limitation as per Expl.1(ii), 1st proviso to sec.	08.09.2018 (Sixty days from 10.07.2018)

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9.	Reassessment order passed on	31.12.2018
10.	Reasons provided to assessee by AO on	03.08.2018, PN 236 of PB, Vol. I.
11.	Objection filed by assessee on	24.08.2018 (page 12, last para, 2nd line of assmt. Order)
12.	As per directions of Hon'ble High Court, date by which objections was to be disposed off	Within a reasonable time after 24.08.2018, in accordance with law.
13.	Objections actually disposed off on	19.12.2018 (page 2, last para, 2nd line of assmt. Order)

”

7. While appreciating same grounds as raised in this appeal, before ITAT, the Tribunal had discussed the same and concluded that even if the submission is to be accepted as argued before it, still the assessment remain time barred as the same was completed on 31.12.2018. Relevant paragraph of impugned order is extracted before for ready reference :

“**19.6.** Coming to the facts of present case, wherein the directions of Hon'ble Allahabad High Court are to dispose off the objections of the assessee within reasonable time in accordance with law, there was no specific direction for completing the assessment thus the same would be governed by the provisions of the Act i.e, in accordance with law, therefore, it was the duty of the assessing authority to complete the assessment within the limitation as contemplated in section 153 r.w. explanation 1(ii) r. w 1st proviso to explanations under Section 153, which the Ld AO had failed to comply with. The case law **CIT vs Chandrabhan Bansal** (supra), therefore, is inapposite to support the contentions of revenue in the present case, rather the same is contrary to the understanding of the revenue, thus, cannot rescue their argument.

19.7 Further arguments, referring to the judgment by Hon'ble High Court of Madras in the case of **J. K.K. Natarajah & Ors Vs. Wealth Tax Officer, Central Circle-VII, Madras & Ors, 142 ITR 804**, judgment of Hon'ble Apex Court in the case of **Govt. of India Vs The Citedal Fine Pharmaceuticals, Madras & Ors AIR 1989 SC 1771**, are made placing strong emphasis on the word "reasonable time" by the revenue, contending that in the present case Hon'ble Jurisdictional High Court have directed to decide the issue within reasonable time, thus, the perception of Ld CIT(A) is bad in law, as it has not taken into account the fact that limitation has been relaxed from 60 days to "reasonable time". It is further argued that Hon'ble High Court had allowed a period of 6 weeks to Ld. AO for furnishing reasons to believe and thereafter 4 weeks to assessee for filing the objections, in view of such directions for 10 weeks or 70 days should further be added while computing the period for limitation Though, we have considered, contemplated interpreted and arrived at the date, being reasonable time in accordance with mandate of law after adding 45 days for providing the reasons to believe and the objections filed by the assessee, as the period of 6 weeks and 4 weeks was upper limit for complying the directions of the Hon'ble Court. Herein, one cannot oblivion of the fact that the directions of Hon'ble Court are qua the disposal of objections and not for completion of the assessment, in fact, there was no specific direction for completion of the assessment. Even if the directions granted by Hon'ble High Court are construed as direction for completing the assessment, the same are for completing the task within a reasonable time, in accordance with law, adhering to the directions of Hon'ble Court in terms of relevant provisions of the Act, described u/s 153 of the Act, the date of limitation has been ascertained to be 24th Oct, 2018 (refer row 6 of the table at para17- supra). In present case, though it is not required

but if the contention of revenue to provide 70 days on account of directions by the Hon'ble Court are added the last date to complete the assessment would be 18th Nov, 2018, still the assessment remain time barred as the same was completed on 31st Dec, 2018.”

8. ITAT has further taken into consideration the decisions of Hon'ble Supreme Court in case of **Union of India and Ors. Vs. Ashish Agarwal**¹ and in case of **Union of India Vs. Rajeev Bansal**² and extracted the relevant portion of decision in case of **Rajeev Bansal** (supra), paragraph of which is also extracted below for ready reference:

“20. In order to interpret the issue of limitation in terms of the recent judgment by the Hon'ble Apex Court in the case of **Union of India vs Rajeev Bansal (2024) 167 taxmann.com 70 (SC) (03.10.2024)**, wherein, the expressive analogy drawn by Hon'ble Apex Court, though in context of new provisions of Section 148, but is vital and binding. In the case of **UOI vs Rajeev Bansal** the guiding principle laid down by Hon'ble Apex Court for computing the period of limitation, analyzing the preconditions contemplated, to be followed by the revenue for issuance of notice u/s 148, as per the order of Hon'ble Apex Court in the case of **Ashish Agarwal (2022) 138 taxmann.com 64 (SC)** have held as under:

“110. The effect of the creation of the legal fiction in Ashish Agarwal (supra) was that it stopped the clock of limitation with effect from the date of issuance of Section 148 notices under the old regime [which is also the date of issuance of the deemed notices]. As discussed in the preceding segments of this judgment, the period from the date of the issuance of the

1 (2022) 138 taxmann.com 64 (SC) : (2023) 1 SCC 617

2 (2024) 167 taxmann.com 70 (SC)

deemed notices till the supply of relevant information and material by the assessing officers to the assesses in terms of the directions issued by this Court in Ashish Agarwal (supra) has to be excluded from the computation of the period of limitation. Moreover, the period of two weeks granted to the assesses to reply to the show cause notices must also be excluded in terms of the third proviso to Section 149.

111. The clock started ticking for the Revenue only after it received the response of the assesses to the show causes notices. After the receipt of the reply, the assessing officer had to perform the following responsibilities: (i) consider the reply of the assessee under Section 149A(c); (ii) take a decision under Section 149A(d) based on the available material and the reply of the assessee; and (iii) issue a notice under Section 148 if it was a fit case for reassessment. Once the clock started ticking, the assessing officer was required to complete these procedures within the surviving time limit. The surviving time limit, as prescribed under the Income Tax Act read with TOLA, was available to the assessing officers to issue the reassessment notices under Section 148 of the new regime.

112. Let us take the instance of a notice issued on 1 May 2021 under the old regime for a relevant assessment year. Because of the legal fiction, the deemed show cause notices will also come into effect from 1 May 2021. After accounting for all the exclusions, the assessing officer will have sixty-one days [days between 1 May 2021 and 30 June 2021] to issue a notice under Section 148 of the new regime. This time starts ticking for the assessing officer after receiving the response of the assessee. In this instance, if the assessee submits the response on 18 June 2022, the assessing officer will have sixty-one days from 18 June 2022 to issue a reassessment notice under Section 148 of the new regime. Thus, in this illustration, the time

limit for issuance of a notice under Section 148 of the new regime will end on 18 August 2022.

113. In *Ashish Agarwal (supra)*, this Court allowed the assesses to avail all the defences, including the defence of expiry of the time limit specified under Section 149(1). In the instant appeals, the reassessment notices pertain to the assessment years 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018. To assume jurisdiction to issue notices under Section 148 with respect to the relevant assessment years, an assessing officer has to: (i) issue the notices within the period prescribed under Section 149(1) of the new regime read with TOLA; and (ii) obtain the previous approval of the authority specified under Section 151. A notice issued without complying with the preconditions is invalid as it affects the jurisdiction of the assessing officer. Therefore, the reassessment notices issued under Section 148 of the new regime, which are in pursuance of the deemed notices, ought to be issued within the time limit surviving under the Income Tax Act read with TOLA. A reassessment notice issued beyond the surviving time limit will be time-barred.

G. Conclusions

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

- a. After 1 April 2021, the Income Tax Act has to be read along with the substituted provisions;
- b. TOLA will continue to apply to the Income Tax Act after 1 April 2021 if any action or proceeding specified under the substituted provisions of the Income Tax Act falls for completion between 20 March 2020 and 31 March 2021;
- c. Section 3(1) of TOLA overrides Section 149 of the Income Tax Act only to the extent

of relaxing the time limit for issuance of a reassessment notice under Section 148;

d. TOLA will extend the time limit for the grant of sanction by the authority specified under Section 151. The test to determine whether TOLA will apply to Section 151 of the new regime is this: if the time limit of three years from the end of an assessment year falls between 20 March 2020 and 31 March 2021, then the specified authority under Section 151(i) has extended time till 30 June 2021 to grant approval;

e. In the case of Section 151 of the old regime, the test is: if the time limit of four years from the end of an assessment year falls between 20 March 2020 and 31 March 2021, then the specified authority under Section 151(2) has extended time till 31 March 2021 to grant approval;

f. The directions in *Ashish Agarwal (supra)* will extend to all the ninety thousand reassessment notices issued under the old regime during the period 1 April 2021 and 30 June 2021;

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 1 April 2021 and 30 June 2021 till the supply of relevant information and material by the assessing officers to the assesses in terms of the directions issued by this Court in *Ashish Agarwal (supra)*, and the period of two weeks allowed to the assesses 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 TOLA. All notices issued beyond the surviving period are time barred and liable to be set aside; ”

and concluded in para 20.2 and 20.3 that the order dated 31.12.2018 passed under Section 143 (3) read with Section 147 of the Act of 1961 to be bad in law, being barred by limitation, having completed beyond the time limit permitted under the law up to 23.10.2018. Tribunal though not accepted the argument of the Revenue, on the basis of the time frame observed in the order of earlier writ petition, but have calculated accordingly and came to conclusion that, even then the last date to complete assessment would be 18th of November 2018, but the assessment in this case is completed on 31st December 2018 and still it was barred by limitation. No satisfactory arguments has been raised before this Court by learned counsel for the appellant -Revenue stating that finding recorded by ITAT in para 19.7 and 20.2 to be erroneous for any specific reason. We do not find any error or infirmity in the finding recorded by ITAT in the impugned order in concluding that order under Section 143 (3) read with Section 147 of the Act of 1961 to be barred by limitation.

9. The appeal under Section 260 -A of the Act of 1961 can be admitted only when the Court satisfies that case involves a substantial question of law.

10. For the foregoing discussions, we are of the considered view that no substantial question of law is involved for admitting this appeal and therefore appeal is liable to be and is hereby dismissed.

Sd/-
(Parth Prateem Sahu)
Judge

Sd/-
(Sachin Singh Rajput)
Judge