IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 9989 of 2025(O&M)

Date of decision: July 07, 2025

LALITA LOHIA

.....PETITIONER

V/S

UNION OF INDIA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLR MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Sandeep Goyal, Advocate,
Mr. Rishab Singla, Advocate,
Mr. Mohit Bassi, Advocate,
Mr. Atharv Prabhakar, Advocate,
and Ms. Alisha Chawla, Advocate,
for the petitioner.

Ms. Gauri Neo Rampal, Sr. Standing Counsel,
Income Tax Department,
with Mr.V. Vedika Rao, Advocate,
for the respondents (through V.C.)

SUDEEPTI SHARMA, J.

1. Challenge in the present writ petition is to order dated 17.02.2025, Demand Notice dated 17.02.2025, order dated 29.07.2022 passed under Section 148 A(d) of the Income Tax Act, 1961 (hereinafter referred to as 'Act, 1961') and notice dated 30.07.2022 under Section 148 of the Act, 1961.

BRIEF FACTS

2. Brief facts of the present case as per pleadings are that petitioner received notice dated 07.04.2021 under Section 148 of the Act, 1961 for the Assessment Year 2017-18 on the ground that income chargeable to tax for the Assessment Year 2017-18 has escaped assessment within the meaning of Section 147 of the Act, 1961.

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

3. On 27.11.2021, petitioner received another notice seeking clarification on certain issues as annexed with the notice. She challenged the proceedings by way of filing CWP No. 93 of 2022, which was disposed of as not pressed in view of order passed by the Hon'ble Supreme Court in ***Union of India Vs. Ashish Aggarwal [2022] SCC ONLINE SC 543,*** wherein the Hon'ble Supreme Court had observed that the notices issued under Section 148 of the Act, 1961 would be deemed to have been issued under Section 148A (b) and the assessing officer was directed to provide information to the assessees to enable them to file their response and thereafter, the assessing officer was directed to pass orders under Section 148A (d). The petitioner received notice dated 26.05.2022 under Section 148A (b) of the Act, 1961. In response to the same, she filed reply. After considering the reply, order dated 29.07.2022 under Section 148A(d) was passed. Petitioner, thereafter, received notice dated 30.07.2022 under Section 148 of the Act, 1961.

4. Feeling aggrieved, petitioner preferred CWP No. 25033 of 2022 challenging the notice not only on the ground of limitation but also approval accorded by the Principal Commissioner of Income Tax under Section 151 of the Act as well as the proceedings.

5. During pendency of said writ petition filed by the petitioner i.e. CWP No. 25033 of 2022, the Hon'ble Apex Court vide its judgment dated 03.10.2024 in the case of ***Union of India Vs. Rajeev Bansal [2024] 469 ITR 46 (SC),*** held that the Taxation and Other Laws Amendment Act, 2021 is applicable for the notices issued between 01.04.2021 to 30.06.2021 and, therefore, the notices issued for the years 2013-14 and 2014-15 are not barred by limitation if issued within the said period. It was further held that the approval, as per the provisions

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

of Section 151, is required to be given by the Principal Commissioner of Income Tax, if the notice has been issued within a period of three years from the assessment year, to which the period relates to and by the Principal Chief Commissioner of Income Tax, if the notice has been issued beyond the period of three years involving an amount more than Rs. 50 lacs represented in the form of asset.

6. In view of the judgment passed by the Hon'ble Supreme Court in the case of ***Union of India and others Vs. Rajeev Bansal (Supra),*** the ground of limitation taken by the petitioner in CWP No. 25033 of 2022 was dropped and the writ petition was dismissed vide order dated 20.12.2024 by deciding the issue of jurisdiction of JAO holding that the notices are validly isued.

7. Petitioner received notice dated 24.01.2025 under Section 142 (1) of the Act, 1961. She filed reply to the same. Thereafter, order under Section 147 read with Section 144B dated 17.02.2025 was passed and Demand Notice dated 17.02.2025 was issued. Hence the present petition.

SUBMISSIONS

8. Learned counsel for petitioner contends that the impugned order dated 17.02.2025 is without jurisdiction since initiation of proceedings by Income Tax Officer, Bhiwani with prior approval of Principal Commissioner of Income Tax, Rohtak itself is void *ab initio* since the approval, which is required for initiation of proceedings under Section 148, has been obtained from the Principal Commissioner of Income Tax, Rohtak, which as per the provisions of Section 151 of the Income Tax Act, was to be obtained from the Principal Chief Commissioner of Income Tax, who is the specified authority as provided under Section 151. He further contends that the issue in this regard is now settled by the Hon'ble

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

Supreme Court in the case of ***Union of India and others Vs. Rajeev Bansal (Supra).***

9. Learned counsel for the respondents is not able to rebut the settled proposition of law as laid down by the Hon'ble Supreme Court in ***Union of India and others Vs. Rajeev Bansal (Supra).***

10. We have heard learned counsel for the parties and perused the whole file of the present case.

JOINT READING OF JUDGMENTS OF HON'BLE SUPREME COURT IN UNION OF INDIA AND OTHERS VS. ASHISH AGGARWAL [2022] SCC ONLINE SC 543 AND UNION OF INDIA VS. RAJEEV BANSAL [2024] 469 ITR 46 (SC) CONCLUDES AS UNDER:-

11. The Finance Act, 2021 substituted the entire scheme of reassessment under Sections 147 to 151 of the Income Tax Act, 1961 w.e.f. 01.04.2021.

12. Prior to coming into force of Finance Act, 2021 initiation of reassessment proceedings was governed by the following provisions of Income Tax Act, 1961:-

> ***"Income escaping assessment***
>
> ***147****. If the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may, subject to the provisions of sections 148 to 153, assess or reassess such income and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section, or recomputed the loss or the depreciation allowance or any other allowance, as the case may be, for the assessment*

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

year concerned (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year):

Provided that where an assessment under sub-section (3) of section 143 or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 139 or in response to a notice issued under sub-section (1) of section 142 or section 148 or to disclose fully and truly all material facts necessary for his assessment, for that assessment year:

Provided further that nothing contained in the first proviso shall apply in a case where any income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment for any assessment year:

Provided also that the Assessing Officer may assess or reassess such income, other than the income involving matters which are the subject matters of any appeal, reference or revision, which is chargeable to tax and has escaped assessment.

Explanation 1.-Production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing proviso.

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

Explanation 2.-For the purposes of this section, the following shall also be deemed to be cases where income chargeable to tax has escaped assessment, namely :-

(a) where no return of income has been furnished by the assessee although his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax;

(b) where a return of income has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return;

(ba) where the assessee has failed to furnish a report in respect of any international transaction which he was so required under section 92E;

(c) where an assessment has been made, but-

(i) income chargeable to tax has been underassessed; or

(ii) such income has been assessed at too low a rate; or

(iii) such income has been made the subject of excessive relief under this Act; or

(iv) excessive loss or depreciation allowance or any other allowance under this Act has been computed;

(ca) where a return of income has not been furnished by the assessee or a return of income has been furnished by him and on the basis of information or document received from the prescribed income-tax

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

authority, under sub-section (2) of section 133C, it is noticed by the Assessing Officer that the income of the assessee exceeds the maximum amount not chargeable to tax, or as the case may be, the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return;

(d) where a person is found to have any asset (including financial interest in any entity) located outside India.

Explanation 3.-For the purpose of assessment or reassessment under this section, the Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, notwithstanding that the reasons for such issue have not been included in the reasons recorded under subsection (2) of section 148.

Explanation 4.-For the removal of doubts, it is hereby clarified that the provisions of this section, as amended by the Finance Act, 2012, shall also be applicable for any assessment year beginning on or before the 1st day of April, 2012.

Issue of notice where income has escaped assessment

148. *(1) Before making the assessment, reassessment or recomputation under section 147, the Assessing Officer shall serve on the assessee a notice requiring him to furnish within such period, as may be specified in the notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars*

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139:

Provided that in a case-

(a) where a return has been furnished during the period commencing on the 1st day of October, 1991 and ending on the 30th day of September, 2005 in response to a notice served under this section, and

(b) subsequently a notice has been served under sub-section (2) of section 143 after the expiry of twelve months specified in the proviso to subsection (2) of section 143, as it stood immediately before the amendment of said sub-section by the Finance Act, 2002 (20 of 2002) but before the expiry of the time limit for making the assessment, re-assessment or recomputation as specified in sub-section (2) of section 153, every such notice referred to in this clause shall be deemed to be a valid notice:

Provided further that in a case-

(a) where a return has been furnished during the period commencing on the 1st day of October, 1991 and ending on the 30th day of September, 2005, in response to a notice served under this section, and

(b) subsequently a notice has been served under clause (ii) of sub-section (2) of section 143 after the expiry of twelve months specified in the proviso to clause (ii) of sub-section (2) of section 143, but before the expiry of the time limit for making the assessment, reassessment or recomputation as specified in sub-section (2) of section 153, every such notice referred to in this clause shall be deemed to be a valid notice.

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

Explanation.-For the removal of doubts, it is hereby declared that nothing contained in the first proviso or the second proviso shall apply to any return which has been furnished on or after the 1st day of October, 2005 in response to a notice served under this section.

(2) The Assessing Officer shall, before issuing any notice under this section, record his reasons for doing so.

Time limit for notice:-

***149**. (1) No notice under section 148 shall be issued for the relevant assessment year-*

(a) if four years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b) or clause (c);

(b) if four years, but not more than six years, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to one lakh rupees or more for that year;

(c) if four years, but not more than sixteen years, have elapsed from the end of the relevant assessment year unless the income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment.

Explanation.-In determining income chargeable to tax which has escaped assessment for the purposes of this subsection, the provisions of Explanation 2 of section 147 shall apply as they apply for the purposes of that section.

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

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

(3) If the person on whom a notice under section 148 is to be served is a person treated as the agent of a non-resident under section 163 and the assessment, reassessment or recomputation to be made in pursuance of the notice is to be made on him as the agent of such non-resident, the notice shall not be issued after the expiry of a period of six years from the end of the relevant assessment year.

Explanation.-For the removal of doubts, it is hereby clarified that the provisions of sub-sections (1) and (3), as amended by the Finance Act, 2012, shall also be applicable for any assessment year beginning on or before the 1st day of April, 2012.

Sanction for issue of notice:-

***151**. (1) No notice shall be issued under section 148 by an Assessing Officer, after the expiry of a period of four years from the end of the relevant assessment year, unless the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice.*

(2) In a case other than a case falling under sub-section (1), no notice shall be issued under section 148 by an Assessing Officer, who is below the rank of Joint Commissioner, unless the Joint Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.

(3) For the purposes of sub-section (1) and sub-section (2), the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner or the Joint Commissioner, as the case

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice under section 148, need not issue such notice himself."

3.1 In pursuance to the power vested under section 3 of the Relaxation Act, 2020, the Central Government issued following Notifications inter-alia extending the time lines prescribed under section 149 for issuance of reassessment notices under section 148 of the Income Tax Act, 1961:

Date of Notification	***Original limitation for issuance of notice under Section 148 of the Act***	***Extended Limitation***
31.03.2020	*20.03.2020 to 29.06.2020*	*30.06.2020*
24.06.2020	*20.03.2020 to 31.12.2020*	*31.03.2021*
31.03.2021	*31.03.2021*	*30.04.2021*
27.04.2021	*30.04.2021*	*30.06.2021*

The Explanations to the Notifications dated 31st March, 2021 and 27th April, 2021 issued under section 3 of the Relaxation Act, 2020 also stipulated that the provisions, as they existed prior to the amendment by the Finance Act, 2021, shall apply to the reassessment proceedings initiated thereunder.

3.2 The Parliament introduced reformative changes to sections 147 to 151 of the Income Tax Act, 1961 governing reassessment proceedings by way of the Finance Act, 2021, which was passed on 28th March, 2021. The substituted sections 147 to 149 and section 151 applicable w.e.f. 01.04.2021, passed in the Finance Act, 2021, are as under:-

Income escaping assessment-

"147. *If any income chargeable to tax, in the case of an assessee, has escaped assessment for any assessment year, the Assessing Officer may,*

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

subject to the provisions of sections 148 to 153, assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for such assessment year (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year).

Explanation.-For the purposes of assessment or reassessment or recomputation under this section, the Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, irrespective of the fact that the provisions of section 148A have not been complied with".

Issue of notice where income has escaped assessment:-

148*. Before making the assessment, reassessment or recomputation under section 147, and subject to the provisions of section 148A, the Assessing Officer shall serve on the assessee a notice, along with a copy of the order passed, if required, under clause (d) of section 148A, requiring him to furnish within such period, as may be specified in such notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139:*

Provided that no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the Assessing Officer has obtained prior approval of the specified authority to issue such notice.

Explanation 1.-For the purposes of this section and section 148A, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means-

(i) any information flagged in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time;

(ii) any final objection raised by the Comptroller and Auditor-General of India to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act.

Explanation 2.-For the purposes of this section, where-

(i) a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A, on or after the 1st day of April, 2021, in the case of the assessee; or

(ii) a survey is conducted under section 133A, other than under sub-section (2A) or sub-section (5) of that section, on or after the 1st day of April, 2021, in the case of the assessee; or

(iii) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner, that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned under section 132 or under section 132A in case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

(iv) the Assessing Officer is satisfied, with the prior approval of Principal Commissioner or Commissioner, that any books of account or documents, seized or requisitioned under section 132 or section 132A in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee, the Assessing Officer shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the three assessment years immediately preceding the assessment year relevant to the previous year in which the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person.

Explanation 3.-For the purposes of this section, specified authority means the specified authority referred to in section 151."

Conducting inquiry, providing opportunity before issue of notice under section 148 –

***"148A**. The Assessing Officer shall, before issuing any notice under section 148-*

(a) conduct any enquiry, if required, with the prior approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment;

(b) provide an opportunity of being heard to the assessee, with the prior approval of specified authority, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a);

(c) consider the reply of assessee furnished, if any, in response to the show-cause notice referred to in clause (b);

(d) decide, on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under section 148, by passing an order, with the prior approval of specified authority, within one month from the end of the month in which the reply referred to in clause (c) is received by him, or where no such reply is furnished, within one month from the end of the month in which time or extended time allowed to furnish a reply as per clause (b) expires:

Provided that the provisions of this section shall not apply in a case where-

(a) a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A in the case of the assessee on or after the 1st day of April, 2021; or

(b) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any money, bullion, jewellery or other valuable article or thing, seized in a search under section 132 or requisitioned under section 132A, in the case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

(c) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any books of account or documents, seized in a search under section 132 or requisitioned under section 132A, in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee.

Explanation.-For the purposes of this section, specified authority means the specified authority referred to in section 151."

Time limit for notice –

***"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 his possession 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 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:

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

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 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 is less than 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 purposes of clause (b) of this subsection, "asset" shall include immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account.

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

Sanction for issue of notice-

***"151**. Specified authority for the purposes of section 148 and section 148A shall be-*

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

(i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;

(ii) Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year."

13. Despite the substituted Sections 147 to 151 of the Income Tax Act, 1961, by the Finance Act, 2021 which came into force on 01.04.2021 many reassessment notices under Section 148 of the Income Tax Act, 1961 were issued to the assessees after coming into force of Finance Act, 2021 i.e. after 01.04.2021, which were assailed before different High Courts on different grounds. Different High Courts quashed the reassessment notices under Section 148 of the Income Tax Act, 1961. Union of India challenged the judgments passed by different High Courts setting aside reassessment notices under Section 148 of the unamended Income Tax Act, which were issued after 01.04.2021 i.e. after coming into force of Finance Act, 2021 before the Hon'ble Supreme Court of India in **Union of India and Others Vs. Ashish Aggarwal [2022] SCC Online SC 543**. Hon'ble Supreme Court partly allowed the appeals filed by the Union of India. Relevant portion of the judgment of Hon'ble Supreme Court in **Union of India and Others Vs. Ashish Aggarwal [2022] SCC Online SC 543** is reproduced as under:-

*"**5**. We have heard Shri N. Venkataraman, learned ASG appearing on behalf of the Revenue and Shri C.A. Sundaram and Shri S. Ganesh, learned Senior Advocates and other learned counsel appearing on behalf of the respective assessee.*

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

***6**. It cannot be disputed that by substitution of sections 147 to 151 of the Income Tax Act (IT Act) by the Finance Act, 2021, radical and reformative changes are made governing the procedure for reassessment proceedings. Amended sections 147 to 149 and section 151 of the IT Act prescribe the procedure governing initiation of reassessment proceedings. However, for several reasons, the same gave rise to numerous litigations and the reopening were challenged inter alia, on the grounds such as (1) no valid "reason to believe" (2) no tangible/reliable material/information in possession of the assessing officer leading to formation of belief that income has escaped assessment, (3) no enquiry being conducted by the assessing officer prior to the issuance of notice; and reopening is based on change of opinion of the assessing officer and (4) lastly the mandatory procedure laid down by this Court in the case of **GKN Driveshafts (India) Ltd. v. Income Tax Officer and ors; (2003) 1 SCC 72**, has not been followed.*

***6.1** Further pre-Finance Act, 2021, the reopening was permissible for a maximum period up to six years and in some cases beyond even six years leading to uncertainty for a considerable time. Therefore, Parliament thought it fit to amend the Income Tax Act to simplify the tax administration, ease compliances and reduce litigation. Therefore, with a view to achieve the said object, by the Finance Act, 2021, sections 147 to 149 and section 151 have been substituted.*

***6.2** Under the substituted provisions of the IT Act vide Finance Act, 2021, no notice under section 148 of the IT Act can be issued without following*

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

the procedure prescribed under section 148A of the IT Act. Along with the notice under section 148 of the IT Act, the assessing officer (AO) is required to serve the order passed under section 148A of the IT Act. section 148A of the IT Act is a new provision which is in the nature of a condition precedent. Introduction of section 148A of the IT Act can thus be said to be a game changer with an aim to achieve the ultimate object of simplifying the tax administration, ease compliance and reduce litigation.

6.3 *But prior to pre-Finance Act, 2021, while reopening an assessment, the procedure of giving the reasons for reopening and an opportunity to the assessee and the decision of the objectives were required to be followed as per the judgment of this Court in the case of GKN Driveshafts (India) Ltd. (supra).*

6.4 *However, by way of section 148A, the procedure has now been streamlined and simplified. It provides that before issuing any notice under section 148, the assessing officer shall (i) conduct any enquiry, if required, with the approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment; (ii) provide an opportunity of being heard to the assessee, with the prior approval of specified authority; (iii) consider the reply of the assessee furnished, if any, in response to the show-cause notice referred to in clause (b); and (iv) decide, on the basis of material available on record including reply of the assessee, as to whether or not it is a fit case to issue a notice under section 148 of the IT Act and (v) the AO is required to pass a specific order within the time stipulated.*

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

6.5 *Therefore, all safeguards are provided before notice under section 148 of the IT Act is issued. At every stage, the prior approval of the specified authority is required, even for conducting the enquiry as per section 148A(a). Only in a case where, the assessing officer is of the opinion that before any notice is issued under section 148A(b) and an opportunity is to be given to the assessee, there is a requirement of conducting any enquiry, the assessing officer may do so and conduct any enquiry. Thus if the assessing officer is of the opinion that any enquiry is required, the assessing officer can do so, however, with the prior approval of the specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment.*

6.6 *Substituted section 149 is the provision governing the time limit for issuance of notice under section 148 of the IT Act. The substituted section 149 of the IT Act has reduced the permissible time limit for issuance of such a notice to three years and only in exceptional cases ten years. It also provides further additional safeguards which were absent under the earlier regime pre-Finance Act, 2021.*

7. *Thus, the new provisions substituted by the Finance Act, 2021 being remedial and benevolent in nature and substituted with a specific aim and object to protect the rights and interest of the assessee as well as and the same being in public interest, the respective High Courts have rightly held that the benefit of new provisions shall be made available even in respect of the proceedings relating to past assessment years, provided section 148*

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

notice has been issued on or after 1st April, 2021. We are in complete agreement with the view taken by the various High Courts in holding so.

8. *However, at the same time, the judgments of the several High Courts would result in no reassessment proceedings at all, even if the same are permissible under the Finance Act, 2021 and as per substituted sections 147 to 151 of the IT Act. The Revenue cannot be made remediless and the object and purpose of reassessment proceedings cannot be frustrated. It is true that due to a bonafide mistake and in view of subsequent extension of time vide various notifications, the Revenue issued the impugned notices under section 148 after the amendment was enforced w.e.f. 01.04.2021, under the unamended section 148. In our view the same ought not to have been issued under the unamended Act and ought to have been issued under the substituted provisions of sections 147 to 151 of the IT Act as per the Finance Act, 2021. There appears to be genuine non-application of the amendments as the officers of the Revenue may have been under a bonafide belief that the amendments may not yet have been enforced. Therefore, we are of the opinion that some leeway must be shown in that regard which the High Courts could have done so. Therefore, instead of quashing and setting aside the reassessment notices issued under the unamended provision of IT Act, the High Courts ought to have passed an order construing the notices issued under unamended Act/unamended provision of the IT Act as those deemed to have been issued under section 148A of the IT Act as per the new provision section 148A and the Revenue ought to have been permitted to proceed further with the reassessment proceedings as per the substituted provisions of sections 147 to 151 of the IT Act as per the Finance Act, 2021,*

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

subject to compliance of all the procedural requirements and the defences, which may be available to the assessee under the substituted provisions of sections 147 to 151 of the IT Act and which may be available under the Finance Act, 2021 and in law. Therefore, we propose to modify the judgments and orders passed by the respective High Courts as under: -

(i) The respective impugned section 148 notices issued to the respective assessees shall be deemed to have been issued under section 148A of the IT Act as substituted by the Finance Act, 2021 and treated to be show-cause notices in terms of section 148A(b). The respective assessing officers shall within thirty days from today provide to the assessees the information and material relied upon by the Revenue so that the assessees can reply to the notices within two weeks thereafter;

(ii) The requirement of conducting any enquiry with the prior approval of the specified authority under section 148A(a) be dispensed with as a one-time measure vis-a-vis those notices which have been issued under Section 148 of the unamended Act from 01.04.2021 till date, including those which have been quashed by the High Courts;

(iii) The assessing officers shall thereafter pass an order in terms of section 148A(d) after following the due procedure as required under section 148A(b) in respect of each of the concerned assessees;

(iv) All the defences which may be available to the assessee under section 149 and/or which may be available under the Finance Act, 2021 and in law and whatever rights are available to the Assessing

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

Officer under the Finance Act, 2021 are kept open and/or shall continue to be available and;

(v) The present order shall substitute/modify respective judgments and orders passed by the respective High Courts quashing the similar notices issued under unamended section 148 of the IT Act irrespective of whether they have been assailed before this Court or not.

9. *There is a broad consensus on the aforesaid aspects amongst the learned ASG appearing on behalf of the Revenue and the learned Senior Advocates/learned counsel appearing on behalf of the respective assessees. We are also of the opinion that if the aforesaid order is passed, it will strike a balance between the rights of the Revenue as well as the respective assesses as because of a bonafide belief of the officers of the Revenue in issuing approximately 90000 such notices, the Revenue may not suffer as ultimately it is the public exchequer which would suffer. Therefore, we have proposed to pass the present order with a view avoiding filing of further appeals before this Court and burden this Court with approximately 9000 appeals against the similar judgments and orders passed by the various High Courts, the particulars of some of which are referred to hereinabove. We have also proposed to pass the aforesaid order in exercise of our powers under Article 142 of the Constitution of India by holding that the present order shall govern, not only the impugned judgments and orders passed by the High Court of Judicature at Allahabad, but shall also be made applicable in respect of the similar judgments and orders passed by various*

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

High Courts across the country and therefore the present order shall be applicable to PAN INDIA.

10. *In view of the above and for the reasons stated above, the present Appeals are ALLOWED IN PART. The impugned common judgments and orders passed by the High Court of Judicature at Allahabad in W.T. No. 524/2021 and other allied tax appeals/petitions, is/are hereby modified and substituted as under: -*

(i) The impugned section 148 notices issued to the respective assessees which were issued under unamended section 148 of the IT Act, which were the subject matter of writ petitions before the various respective High Courts shall be deemed to have been issued under section 148A of the IT Act as substituted by the Finance Act, 2021 and construed or treated to be show cause notices in terms of section 148A(b). The assessing officer shall, within thirty days from today provide to the respective assessees information and material relied upon by the Revenue, so that the assesees can reply to the show-cause notices within two weeks thereafter;

(ii) The requirement of conducting any enquiry, if required, with the prior approval of specified authority under section 148A(a) is hereby dispensed with as a one-time measure vis-avis those notices which have been issued under section 148 of the unamended Act from 01.04.2021 till date, including those which have been quashed by the High Courts. Even otherwise as observed hereinabove holding any enquiry with the prior approval of specified authority is not

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

mandatory but it is for the concerned Assessing Officers to hold any enquiry, if required;

(iii) The assessing officers shall thereafter pass orders in terms of section 148A(d) in respect of each of the concerned assessees; Thereafter after following the procedure as required under section 148A may issue notice under section 148 (as substituted);

(iv) All defences which may be available to the assesses including those available under section 149 of the IT Act and all rights and contentions which may be available to the concerned assessees and Revenue under the Finance Act, 2021 and in law shall continue to be available.

***11**. The present order shall be applicable PAN INDIA and all judgments and orders passed by different High Courts on the issue and under which similar notices which were issued after 01.04.2021 issued under section 148 of the Act are set aside and shall be governed by the present order and shall stand modified to the aforesaid extent. The present order is passed in exercise of powers under Article 142 of the Constitution of India so as to avoid any further appeals by the Revenue on the very issue by challenging similar judgments and orders, with a view not to burden this Court with approximately 9000 appeals. We also observe that present order shall also govern the pending writ petitions, pending before various High Courts in which similar notices under Section 148 of the Act issued after 01.04.2021 are under challenge.*

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

> ***12***. *The impugned common judgments and orders passed by the High Court of Allahabad and the similar judgments and orders passed by various High Courts, more particularly, the respective judgments and orders passed by the various High Courts particulars of which are mentioned hereinabove, shall stand modified/substituted to the aforesaid extent only.*

14. Therefore, in above referred to judgment of Hon'ble Supreme Court in case of **Union of India and Others Vs. Ashish Aggarwal [2022] SCC Online SC 543**, it was held that impugned notices under Section 148 issued to the respective assessees under unamended Section 148 of the Income Tax Act and were subject matter of writ petitions before the various respective High Courts shall be deemed to have been issued under Section 148-A of the Income Tax Act as substituted by the Finance Act, 2021 and be construed or treated to be show cause notices in terms of Section 148A(b). It was further held that the Assessing Officer shall, within 30 days from the date of passing of the judgment i.e. 04.05.2022, provide to the respective assessees information and material relied upon by the Revenue, so that the Assessees can reply to the show cause notices within 2 weeks thereafter. It was further held by the Hon'ble Supreme Court that requirement of conducting any enquiry, if required, with prior approval of specified authority under Section 148A(a) is dispensed with as one time measure viz-a-viz those notices which were issued under Section 148 of the unamended Act from 01.04.2021 (Finance Act, 2021) till date i.e. 04.05.2022 (Decision in Ashish Aggarwal). Further that the Assessing Officer shall thereafter pass orders in terms of Section 148A(d) in respect of each of the concerned assessees and thereafter, after following the procedure as required under Section 148A, may

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

issue notice(s) under Section 148 (as substituted).

15. On 11.05.2022 following the decision in **Union of India and Others Vs. Ashish Aggarwal**, the Central Board of Direct Taxes issued instructions for the implementation of the decision in **Ashish Aggarwal's case (supra**), wherein it was clarified that the judgment in Ashish Aggarwal would apply to all the cases where extended reassessment notices were issued, irrespective of the fact whether such notices were challenged or not. These instructions further stated that reassessment notices would "travel back in time to their original date when such notices were to be issued and then new Section 149 of the Income Tax Act is to be applied at that point." The instructions further elaborated the mechanism for issuing notices under Section 148 of the new regime. The Assessing Officers accordingly after considering the replies furnished by the assessees passed orders under Section 148A(d) and subsequently notices under Section 148 of the new regime were issued to the assessees by the Assessing Officers, between July and September 2022, for the Assessment Year 2013-2014, 2014-2015, 2015-2016, 2016-2017 and 2017-2018. These notices were challenged before several High Courts, who declared the notices to be invalid being time barred and being issued without the appropriate sanction of the specified authority.

16. In **Ashish Aggarwal's case (supra)** Hon'ble Supreme Court did not deal with the issue as to whether or not reassessment notices were issued within the time limits prescribed under the provisions of Income Tax Act, 1961 read with relaxations provided under the Taxation and Other Laws (Relaxation of Certain Provisions) Act, 2020 (TOLA). Different High Courts declared the notices under Section 148 of the new regime issued to the assessees by the Assessing Officers

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

between July and September 2022, for the Assessment Year 2013-2014, 2014-2015, 2015-2016, 2016-2017 and 2017-2018 to be invalid, being time barred and being issued without appropriate sanction of specified authority. The same were challenged by way of filing the appeals before the Hon'ble Supreme Court in **Union of India and Others Vs. Rajiv Bansal**. The Hon'ble Supreme Court framed the following issues in **Union of India and Others Vs. Rajiv Bansal** :-

> ***"B. Issues***
>
> *18. The present batch of appeals gives rise to the following issues:-*
>
> *a. Whether TOLA and notification issued under it will also apply to reassessment notices issued after 1 April 2021; and*
>
> *b. Whether the reassessment notices issued under Section 148 of the new regime between July and September 2022 are valid."*

17. Before proceeding further it would be appropriate to reproduce the relevant portion of the judgment passed by the Hon'ble Supreme Court in the case of **Union of India Vs. Rajeev Bansal [2024] 469 ITR 46 (SC).** The same is reproduced as under :-

> ***B. Issues***
>
> *18. The present batch of appeals gives rise to the following issues:-*
>
> *a. Whether TOLA and notification issued under it will also apply to reassessment notices issued after 1 April 2021; and*
>
> *b. Whether the reassessment notices issued under Section 148 of the new regime between July and September 2022 are valid.*
>
> XXX XXX XXX XXX
>
> XXX XXX XXX XXX
>
> ***D. Legal Background***
>
> ***i. Assessment as a quasi-judicial function***

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

21. The power to levy tax is an essential and inherent attribute of sovereignty. It is an inherent attribute because the government requires funds to discharge its governmental functions. Taxation is also a recognised fiscal tool to achieve fiscal and social objectives. *Although the power to levy taxes is plenary, it is subject to certain well-defined limitations. Article 265 of the Constitution provides that no tax shall be levied or collected except by authority of law. A taxing statute must be valid and conform to other provisions of the Constitution.*

22. Article 265 makes a distinction between "levy" and "collection." The expression "levy" has a wider connotation. It includes both the imposition of a tax as well as assessment. The quantum of tax levied by a taxing statute, the conditions subject to which it is levied, and how it is sought to be recovered are all matters within the competence of the legislature. In a taxing statute, the charging provisions are generally accompanied by a set of provisions for computing or assessing the levy. The character of assessment provisions bears a relationship to the nature of the charge.

23. Thomas Cooley describes assessment as the most important of all the proceedings in taxation. He further describes the necessity of assessment thus:

> *"An assessment, when taxes are to be levied upon a valuation, is obviously indispensable. It is required as the first step in the proceedings against individual subjects of taxation, and is the foundation of all which follow it. Without an assessment they have no support, and are nullities. The assessment is, therefore, the most important of all the proceedings in taxation, and the provisions to insure its accomplishing its office are commonly very full and particular. If there is no valid assessment, a tax on sale of lands is a nullity. A want of assessment is not a mere irregularity remedied by a curative statute.*
>
> *On the other hand, no assessment is necessary where the statute itself prescribes the amount to be paid, and this can be recovered by suit. For instance, where a statute imposes a tax at a specified rate upon bank deposits, no other assessment other than that made by the statute itself is necessary."*

24. The expression "assessment" comprehends the entire procedure for ascertaining and imposing liability upon taxpayers. The process of assessment involves computation of the income of the assessees, determination of tax payable by them, and the procedure for collecting or recovering tax. An assessing officer is concerned with the assessment and collection of revenue. An assessing officer must administer the provisions of the Income Tax Act in the interests of the public revenue and to prevent evasion or escapement of tax legitimately due to the State.

25. In Province of Bombay v. Khushaldas S Advani, 1950 SCC Online SC 26[80] Justice S R Das (as the learned Chief Justice then was), in his concurring opinion observed that if a statutory authority has the power to

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

perform any act that will prejudicially affect the subject, then although there are no two parties apart from the authority and the contest is between the authority proposing to do the act and the subject opposing it, the final determination of the authority will be quasi- judicial provided the authority is required by the statute to act judicially. A quasi-judicial authority is under an obligation to act judicially.

26. An assessment acquires finality on the making of an assessment order by the assessing officer. It creates a vested right in favour of the assessee. Section 2(8) of the Income Tax Act defines "assessment" to include reassessment. Reassessment is nothing but a fresh assessment. The effect of reopening the assessment is to vacate or set aside the order of assessment and to substitute in its place the order of reassessment. The procedure of reassessment of tax is quasi-judicial because it prejudicially affects the vested rights of the assessee. In CIT v. Simon Carves Ltd. (1976) 4 SCC 435, Justice H R Khanna, speaking for a Bench of three Judges, explained the quasi-judicial function performed by the assessing officers during the process of assessment and reassessment thus:

> *"10. [...] The taxing authorities exercise quasi-judicial powers and in doing so they must act in a fair and not a partisan manner. Although it is part of their duty to ensure that no tax which is legitimately due from an assessee should remain unrecovered they must also at the same time not act in a manner as might indicate that scales are weighted against the assessee. We are wholly unable to subscribe to the view that unless those authorities exercise the power in a manner most beneficial to the revenue and consequently most adverse to the assessee, they should be deemed not to have exercised it in a proper and judicious manner."*

27. Since the assessing officers perform a quasi-judicial function during reassessment, the powers vested in them are regulated by law. The process of reassessment is generally preceded by administrative proceedings, which require the assessing officer to obtain the sanction of the specified authorities. The taxing statutes generally lay down the procedure for issuance of notice to the proposed assessee in respect of income or property proposed to be taxed. It also prescribes the authority and procedure for hearing any objections to the liability for taxation.

ii. Assessment as an issue of jurisdiction

28. Jurisdiction is defined as the power of a court, tribunal, or authority to hear and determine a cause or exercise any judicial power concerning such cause. The Revenue officers must have requisite jurisdiction to perform their functions and responsibilities following the provisions of the Income Tax Act. Under the Income Tax Act 1922, Section 34 allowed an Income Tax Officer to reassess income that escaped assessment for a relevant assessment year. Section 34 provided that a reassessment notice could not be issued beyond the prescribed time limit (which was generally within eight years from the end of the relevant assessment year). Thus, Section 34 conferred jurisdiction on Income Tax Officers to

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

reopen an assessment subject to the issuance of notice within the prescribed time limits. In Ahmedabad Manufacturing and ***Calico Printing Co. Ltd. v. S G Mehta, ITO, 1962 SCC OnLine SC 73*** Justice M Hidayatullah (as the learned Chief Justice then was), writing for himself and Justice Raghubar Dayal, observed:

> "It must be remembered that if the Income-tax Act prescribes a period during which the tax due in any particular assessment year may be assessed, then on the expiry of that period the department cannot make an assessment. Where no period is prescribed that assessment can be completed at any time but once completed it is final. Once a final assessment has been made, it can only be reopened to rectify a mistake apparent from the record (section 35) or to reassess where there has been an escapement of assessment of income for one reason or another (section 34). Both these sections which enable reopening of back assessments provide their own periods of time for action but all these periods of time, whether for the first assessment or for rectification, or for reassessment, merely create a bar when that time passed against the machinery set up by the Income-tax Act for the assessment and levy of the tax. They do not create an exemption in favour of the assessee or grant an absolution on the expiry of the period. The liability is not enforceable but the tax may again become exigible if the bar is removed and the taxpayer is brought within the jurisdiction of the said machinery by reasons of a new power. This is, of course, subject to the condition that the law must say that such is the jurisdiction, either expressly or by clear implication. If the language of the law has that clear meaning, it must be given that effect and where the language expressly so declares or clearly implies it, the retrospective operation is not controlled by the commencement clause."

29. In S S Gadgil v. Lal & Co., a three-Judge Bench of this Court held that the period prescribed under Section 34 of the Income Tax Act 1922 "is not a period of limitation." It was further observed that Section 34 "imposes a fetter upon the power of the Income Tax Officer to bring to tax escaped income" by prescribing "different periods in different classes of cases for enforcement of the right of the States to recover tax." Under Section 34, Income Tax Officers were statutorily barred from issuing a notice of assessment or reassessment after the expiry of the statutory time limit prescribed under the Income Tax Act. Consequently, reassessment notices issued by the Revenue beyond the prescribed time limits were declared invalid for being time-barred. Assessment proceedings that have attained finality under existing law due to a time bar cannot be held to be open for revival unless the amended provision is given retrospective effect to allow upsetting the legal proceedings.

30. If a statute expressly confers a power or imposes a duty on a particular authority, then such power or duty must be exercised or performed by that authority itself. Further, when a statute vests certain power in an authority to be exercised in a particular manner, then that authority has to exercise its power following the prescribed manner. Any

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

exercise of power by statutory authorities inconsistent with the statutory prescription is invalid. Section 34 of the Income Tax Act 1922 prescribed a duty on Income Tax Officers to seek prior approval of the Commissioner before issuing a reassessment notice. In ***CIT v. Maharaja Pratapsingh Bahadur of Gidhaur, 1960 SCC OnLine SC 55[6]*** a three-Judge Bench of this Court held that a notice issued under Section 34 without prior approval of the Commissioner was invalid.

31. The Income Tax Act 1961 also mandates assessing officers to fulfil certain pre-conditions before issuing a notice of reassessment. Section 149 requires assessing officers to issue a notice of reassessment under Section 148 within the prescribed time limits. Further, Section 151 requires assessing officers to obtain sanction of the specified authority before issuing notice under Section 148. In Chhugamal Rajpal v. S P Chaliha, a three-Judge Bench of this Court held that Section 151 must be strictly adhered to because it contains "important safeguards."

32. A statutory authority may lack jurisdiction if it does not fulfil the preliminary conditions laid down under the statute, which are necessary to the exercise of its jurisdiction. There cannot be any waiver of a statutory requirement or provision that goes to the root of the jurisdiction of assessment. An order passed without jurisdiction is a nullity. Any consequential order passed or action taken will also be invalid and without jurisdiction. Thus, the power of assessing officers to reassess is limited and based on the fulfilment of certain preconditions.

iii. Principles of strict interpretation and workability

33. The dominant purpose in interpreting a taxing statute is to ascertain the intention of the legislature to impose a charge. A literal rule of construction requires the language of a statute to be construed according to its literal and grammatical meaning, whatever the result may be. In comparison, a strict interpretation of a statute does not encompass strict literalism, which leads to absurdity or goes against the express legislative intent. The principle of strict interpretation requires the courts to interpret and decipher the meaning of the words of the statute in their usual sense.

34. Taxing statutes are interpreted by following the principles of strict interpretation. While interpreting a taxing statute, there is no room for any intendment. A taxing statute must be construed by having regard to the strict letter of the law. In a taxing statute, it is not possible to assume any intention or governing purpose more than what is stated in the plain language. A taxing statute can successfully impose liability on persons or property only if it frames appropriate provisions to that end. The courts cannot plug in a loophole in a taxing statute "by a strained construction in reference to the supposed intention of the Legislature." Further, the considerations of equity or justice are not relevant in interpreting a taxing statute.

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

35. It is a well-accepted rule of construction that in situations where the interpretation of taxing legislation is ambiguous or leads to two possible interpretations, the interpretation most beneficial to the subject of the tax should be adopted. It would not be an unjust result if a taxpayer escapes the tax net on account of the legislature's failure to express itself clearly.

36. In a taxing statute, the charging section has to be construed strictly, but the machinery provisions must be interpreted in accordance with the ordinary rules of statutory interpretation. The purpose is to give effect to the clear intention of the legislature. In ***Murarilal Mahabir Prasad v. B R Vad, (1975) 2 SCC 736 [29]*** this Court held that:

> "29. […] There is no equity about a tax in the sense that a provision by which a tax is imposed has to be construed strictly, regardless of the hardship that such a construction may cause either to the treasury or to the taxpayer. If the subject falls squarely within the letter of law he must be taxed, howsoever inequitable the consequences may appear to the judicial mind. If the Revenue seeking to tax cannot bring the subject within the letter of law, the subject is free no matter that such a construction may cause serious prejudice to the Revenue. In other words, though what is called equitable construction may be admissible in relation to other statutes or other provisions of a taxing statute, such a construction is not admissible in the interpretation of a charging or taxing provision of a taxing statute."

37. A statute is designed to be workable. A statutory provision must be construed in a manner to make it workable to achieve the purpose of the legislation. A construction that fails to achieve the manifest purpose of legislation or reduces the statutory provisions to futility should be avoided. The machinery provisions must be construed to effectuate the object and purpose of a statute and not defeat them. In ***J K Synthetics Ltd. v. CTO, (1994) 4 SCC 276,*** a Constitution Bench of this Court observed:

> "16. It is well-known that when a statute levies a tax it does so by inserting a charging section by which a liability is created or fixed and then proceeds to provide the machinery to make the liability effective. It, therefore, provides the machinery for the assessment of the liability already fixed by the charging section, and then provides the mode for the recovery and collection of tax, including penal provisions meant to deal with defaulters. Provision is also made for charging interest on delayed payments, etc. Ordinarily the charging section which fixes the liability is strictly construed but that rule of strict construction is not extended to the machinery provisions which are construed like any other statute. The machinery provisions must, no doubt, be so construed as would effectuate the object and purpose of the statute and not defeat the same."

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

38. The provisions in a taxing statute dealing with machinery for assessment have to be construed in accordance with the intention of the legislature to make the charge levied effective. While interpreting provisions that set up the machinery of assessment, the rule is that construction should be preferred which makes the machinery workable and furthers the intention of the legislature. In ***CIT v. Sun Engineering Works (P) Ltd., (1992) 4 SCC 363 [40],*** a two-Judge Bench of this Court observed that the provision dealing with reassessment contained in Section 147 of the Income Tax Act was for the benefit of the Revenue:

> "40. Although, Section 147 is part of a taxing statute, it imposes no charge on the subject but deals merely with the machinery of assessment and in interpreting a provision of that kind, the rule is that construction should be preferred which makes the machinery workable. Since the proceedings under Section 147 of the Act are for the benefit of the Revenue and not an assessee and are aimed at gathering the 'escaped income' of an assessee, the same cannot be allowed to be converted as 'revisional' or 'review' proceedings at the instance of the assessee, thereby making the machinery unworkable."

XXX XXX XXX XXX

XXX XXX XXX XXX

iii. Sanction of the specified authority

73. Section 151 imposes a check upon the power of the Revenue to reopen assessments. The provision imposes a responsibility on the Revenue to ensure that it obtains the sanction of the specified authority before issuing a notice under Section 148. The purpose behind this procedural check is to save the assesses from harassment resulting from the mechanical reopening of assessments. A table representing the prescription under the old and new regime is set out below:

Regime	Time limits	Specified authority
Section 151 (2) of the old regime	Before expiry of four years from the end of the relevant assessment year	Joint Commissioner
Section 151 (1) of the old regime	After expiry of four years from the end of the relevant	Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

	assessment year	Commissioner
Section 151 (1) of the new regime	Three years or less than three years from the end of the relevant assessment year	Principal Commissioner or Principal Director or Commissioner or Director
Section 151 (ii) of the new regime	More than three years have elapsed from the end of the relevant assessment year	Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General

74. The above table indicates that the specified authority is directly co-related to the time when the notice is issued. This plays out as follows under the old regime:

> (i) **If income escaping assessment was less than Rupees one lakh**: (a) a reassessment notice could be issued under Section 148 within four years after obtaining the approval of the Joint Commissioner; and (b) no notice could be issued after the expiry of four years; and
>
> (ii) **If income escaping was more than Rupees one lakh:** (a) a reassessment notice could be issued within four years after obtaining the approval of the Joint Commissioner; and (b) after four years but within six years after obtaining the approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

75. After 1 April 2021, the new regime has specified different authorities for granting sanctions under Section 151. The new regime is beneficial to the assesse because it specifies a higher level of authority for the grant of sanctions in comparison to the old regime. Therefore, in terms of Ashish Agarwal (supra), after 1 April 2021, the prior approval must be obtained from the appropriate authorities specified under Section 151 of the new regime. The effect of Section 151 of the new regime is thus:

> (i) **If income escaping assessment is less than Rupees fifty lakhs**: (a) a reassessment notice could be issued within three years after obtaining the prior approval of the Principal Commissioner, or Principal Director or Commissioner or Director; and (b) no notice could be issued after the expiry of three years; and
>
> (ii) **If income escaping assessment is more than Rupees fifty lakhs:** (a) a reassessment notice could be issued within three years after obtaining the prior approval of the Principal Commissioner, or Principal Director or Commissioner or Director; and (b) after three years after obtaining the prior approval of the Principal Chief

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

> Commissioner or Principal Director General or Chief Commissioner or Director General.

76. Grant of sanction by the appropriate authority is a precondition for the assessing officer to assume jurisdiction under Section 148 to issue a reassessment notice. Section 151 of the new regime does not prescribe a time limit within which a specified authority has to grant sanction. Rather, it links up the time limits with the jurisdiction of the authority to grant sanction. Section 151(ii) of the new regime prescribes a higher level of authority if more than three years have elapsed from the end of the relevant assessment year. Thus, non-compliance by the assessing officer with the strict time limits prescribed under Section 151 affects their jurisdiction to issue a notice under Section 148.

77. Parliament enacted TOLA to ensure that the interests of the Revenue are not defeated because the assessing officer could not comply with the pre-conditions due to the difficulties that arose during the COVID-19 pandemic. Section 3(1) of TOLA relaxes the time limit for compliance with actions that fall for completion from 20 March 2020 to 31 March 2021. TOLA will accordingly 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 an extended time till 30 June 2021 to grant approval. 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 time till 31 March 2021 to grant approval. The time limit for Section 151 of the old regime expires on 31 March 2021 because the new regime comes into effect on 1 April 2021.

78. For example, the three year time limit for assessment year 2017-2018 falls for completion on 31 March 2021. It falls during the time period of 20 March 2020 and 31 March 2021, contemplated under Section 3(1) of TOLA. Resultantly, the authority specified under Section 151(i) of the new regime can grant sanction till 30 June 2021.

79. Under Finance Act 2021, the assessing officer was required to obtain prior approval or sanction of the specified authorities at four stages:

> **a. Section 148A(a)** – to conduct any enquiry, if required, with respect to the information which suggests that the income chargeable to tax has escaped assessment;
>
> **b. Section 148A(b)** – to provide an opportunity of hearing to the assessee by serving upon them a show cause notice as to why a notice under Section 148 should not be issued based on the information that suggests that income chargeable to tax has

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

> escaped assessment. It must be noted that this requirement has been deleted by the Finance Act 2022; 129
>
> **c. Section 148A(d)** – to pass an order deciding whether or not it is a fit case for issuing a notice under Section 148; and
>
> **d. Section 148** – to issue a reassessment notice.

80. In Ashish Agarwal (supra), this Court directed that Section 148 notices which were challenged before various High Courts "shall be deemed to have been issued under Section 148-A of the Income Tax Act as substituted by the Finance Act, 2021 and construed or treated to be show-cause notices in terms of Section 148-A(b)." Further, this Court dispensed with the requirement of conducting any enquiry with the prior approval of the specified authority under Section 148A(a). Under Section 148A(b), an assessing officer was required to obtain prior approval from the specified authority before issuing a show cause notice. When this Court deemed the Section 148 notices under the old regime as Section 148A(b) notices under the new regime, it impliedly waived the requirement of obtaining prior approval from the specified authorities under Section 151 for Section 148A(b). It is well established that this Court while exercising its jurisdiction under Article 142, is not bound by the procedural requirements of law.

F. Section 148 notices issued in June-September 2022

81. This Court in Ashish Agarwal (supra) directed the assessing officers to "pass orders in terms of Section 148-A(d) in respect of each of the assesses concerned." Further, it directed the assessing officers to issue a notice under Section 148 of the new regime "after following the procedure as required under Section 148-A." Although this Court waived off the requirement of obtaining prior approval under Section 148A(a) and Section 148A(b), it did not waive the requirement for Section 148A(d) and Section 148. Therefore, the assessing officer was required to obtain prior approval of the specified authority according to Section 151 of the new regime before passing an order under Section 148A(d) or issuing a notice under Section 148. These notices ought to have been issued following the time limits specified under Section 151 of the new regime read with TOLA, where applicable.

XXX	XXX	XXX	XXX
XXX	XXX	XXX	XXX

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;

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

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;"

CONCLUSION

18. Before concluding, it would be apposite to reproduce Section 151 of the Income Tax Act, 1961. The same is reproduced as under:-

Sanction for issue of notice-

"151*. Specified authority for the purposes of section 148 and section 148A shall be-*

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

(i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;

(ii) Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year."

19. A perusal of notice dated 30.07.2022 under Section 148 of the Act, 1961 for the Assessment Year 2017-18 shows that the same has been issued after obtaining prior approval of the Principal Commissioner of Income Tax, Rohtak dated 29.07.2022, whereas as per Section 151 of the Act, reproduced above, the specified authority is Principal Chief Commissioner of Income Tax.

20. As per Section 151 of the new regime, after 01.04.2021, different authorities have been specified for granting sanctions as mentioned in Para No. 75 of the judgment passed by the Hon'ble Supreme Court in the case of **Union of India Vs. Rajeev Bansal (supra)**. In above referred to judgment, the Hon'ble Supreme Court has held that grant of sanction by the appropriate authority is a precondition for the Assessing Officer to assume jurisdiction under Section 148 to issue a re-assessment notice. Non-compliance by the Assessing Officer with the strict time limits prescribed under Section 151 affects their jurisdiction to issue a notice under Section 148 of the Act, 1961.

21. Further, Section 151 of the new regime links up the time limits with jurisdiction of authority to grant sanction. Section 151 (ii) of the new regime prescribes a higher level of authority if more than three years have elapsed from

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document

the end of relevant assessment year. Therefore, non-compliance by the assessing officer with the strict time limits prescribed under Section 151 affects their jurisdiction to issue a notice under Section 148 of the Act, 1961.

22. In view of the above, the present writ petition is allowed and order dated 17.02.2025, Demand Notice dated 17.02.2025, order dated 29.07.2022 passed under Section 148 A(d) of the Income Tax Act, 1961 (hereinafter referred to as 'Act, 1961') and notice dated 30.07.2022 under Section 148 of the Act, 1961 are, hereby, set aside.

23. All the pending application(s), if any, also stand disposed of.

(LISA GILL)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

July 07, 2025
pj

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

PRERNA JOSHI
2025.08.05 18:02
I attest to the accuracy and
integrity of this document