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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision: 19th November, 2026***

\# **CNR No. DLHC010048682023**

\+ W.P.(C) 1968/2023

T.K.S. BUILDERS PVT. LTD. ....Petitioner

Through: Mr. Sandeep Goel, Adv.

versus

INCOME TAX OFFICER WARD 25(3) NEW DELHI.....Respondent

Through: Mr. Ruchir Bhatia, SSC with Mr. Anant Mann, JSC & Mr. Pratyaksh Gupta, JSC.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE DR. JUSTICE ADITI CHOUDHARY

J U D G M E N T

DINESH MEHTA, J.*(ORAL)*

1. The present writ petition assails the reassessment proceedings initiated against the petitioner for the Assessment Year 2014–15, principally on the ground that the consequential notice issued under Section 148 of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*) is barred by limitation.

2. The controversy which arises for consideration is whether, having regard to the time available to the Assessing Officer under the provisions of the Act of 1961 read with the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (*hereinafter referred to as*

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'TOLA'), and the directions issued by Hon'ble the Supreme Court in the case of ***Union of India v. Ashish Agarwal*** reported in **(2023) 1 SCC 617**, the impugned notice dated 23.07.2022 was issued within the surviving period of limitation.

3. The material dates relevant for determining the aforesaid controversy are as follows:

Sl. No.	Date	Particulars
1.	30.06.2021	Original notice under Section 148 of the Act of 1961 issued under the erstwhile regime.
2.	30.06.2021	Last date up to which the limitation period stood extended under TOLA.
3.	26.05.2022	Communication/notice issued under Section 148A(b) of the Act of 1961, furnishing material and calling upon the petitioner to respond.
4.	17.06.2022	On petitioner's request to adjourn the case, time to file reply was extended to 24.06.2022.
5.	24.06.2022	Reply to Section 148A(b) furnished by the petitioner.
6.	23.07.2022	Issuance of notice under Section 148 of the Act of 1961.

4. Learned counsel for the petitioner submits that the original notice under Section 148 of the Act of 1961 was issued on 30.06.2021, leaving only one day of the extended limitation period available to the Assessing Officer i.e. the surviving period of limitation. It is contended that after the petitioner furnished its response on 24.06.2022, the Assessing Officer was required to complete the proceedings under Section 148A of the Act of 1961, including passing an order under clause (d) thereof and issuance of the

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consequential notice under Section 148 of the Act of 1961, within the surviving period of limitation. However, the notice under Section 148 of the Act of 1961 came to be issued on 23.07.2022, much beyond the permissible period.

5. Mr. Anant Mann, learned Junior Standing Counsel for the respondent was not in a position to controvert on facts and on law.

6. Heard learned counsel for the parties and examined the material placed on record.

7. Before proceeding to examine the factual position, it would be apposite to notice the legal framework governing the reassessment proceedings initiated under the erstwhile provisions of the Act of 1961 prevailing between 01.04.2021 and 30.06.2021.

8. Hon'ble the Supreme Court, in the case of **Ashish Agarwal (supra)**, while dealing with the notices issued under the erstwhile provisions of Section 148 of the Act of 1961, directed that such notices be treated as show-cause notices under Section 148A(b) of the Act of 1961 of the substituted regime. The Assessing Officers were required to furnish the relevant information and material to the respective assessees and thereafter proceed in accordance with the substituted provisions of the Act of 1961.

9. The aforesaid directions were subsequently examined in detail by Hon'ble the Supreme Court in ***Union of India & Ors. v. Rajeev Bansal***, reported in **(2024) 469 ITR 46 (SC)**.

10. In the said judgment, Hon'ble the Supreme Court explained the effect of the legal fiction created by the directions in **Ashish Agarwal (supra)** and the manner in which the surviving period of limitation was required to be computed.

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11. Hon'ble the Supreme Court held that the time surviving under the provisions of the Act of 1961 read with TOLA would remain available to the Revenue for completing the reassessment proceedings initiated through the deemed notices. For this purpose, the balance period is to be computed by reference to the number of days available between the date of issuance of the original notice under Section 148 of the Act of 1961 and 30.06.2021.

12. Hon'ble the Supreme Court further clarified that the period commencing from the issuance of the deemed notice until the supply of relevant information and material to the assessee is liable to be excluded. The period allowed to the assessee to furnish its response is also required to be excluded in terms of the relevant proviso to Section 149 of the Act of 1961.

13. The material aspect of the aforesaid decision is the determination of the point at which the surviving period of limitation becomes available to the Assessing Officer. In paragraph 111 of judgment of **Rajeev Bansal (supra)**, Hon'ble the Supreme Court categorically observed that the clock of limitation starts running for the Revenue only after receipt of the assessee's response to the show-cause notice. It further explained that, upon receipt of the response, the Assessing Officer is required to consider the same, take a decision under Section 148A(d) of the Act of 1961, and issue a notice under Section 148 of the Act of 1961, if the case so warrants, within the surviving period of limitation.

14. Having noticed the aforesaid legal position, if the facts of the present case are examined, it is evident that the original notice under Section 148 of the Act of 1961 was issued on 30.06.2021. The period for issuance of such notice, as extended by TOLA, also expired on 30.06.2021. Consequently,

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only one day remained available with the Assessing Officer for completing the reassessment proceedings.

15. The Assessing Officer thereafter issued a show cause notice dated 26.05.2022 under Section 148A(b) of the Act of 1961 and vide the communication dated 17.06.2022, petitioner was given time till 24.06.2022 to furnish its response.

16. Admittedly, the petitioner furnished its reply on 24.06.2022 itself and the surviving period of one day commenced from that day.

17. But since the surviving period was less than seven days, it is also necessary to notice the fourth proviso to Section 149(1) of the Act of 1961 (as it stood in 2021) which, as applicable at the relevant time, provided that where, immediately after the exclusion of the prescribed period, the period of limitation available to the Assessing Officer for passing an order under Section 148A(d) of the Act of 1961 was less than seven days, such remaining period would stand extended to seven days.

18. The said statutory provision is intended to ensure that, notwithstanding the exclusion of the period during which the assessee is entitled to respond, the Assessing Officer has a minimum period of seven days available for completing the remaining statutory exercise, including passing an order under Section 148A(d) of the Act of 1961 and issuance of the consequential notice under Section 148 of the Act of 1961.

19. In the present case, immediately after excluding the period during which the proceedings remained pending for furnishing material and consideration of the assessee's response, the time surviving with the Assessing Officer was only one day. The same being less than seven days, the statutory extension contemplated under the aforesaid proviso would

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necessarily come into operation. Consequently, even after granting the benefit of the said extension to the Revenue, the Assessing Officer had a maximum period of seven days from 24.06.2022 to complete the remaining proceedings till 01.07.2022.

20. In the present case, despite the statutory outer limit expiring on 01.07.2022, the Assessing Officer proceeded to issue the notice under Section 148 of the Act of 1961 on 23.07.2022. The said notice was therefore issued beyond the surviving period of limitation available to the Revenue.

21. We are, therefore, of the considered view that the impugned reassessment proceedings have been initiated beyond the period of limitation prescribed under Section 149 of the Act of 1961, read with TOLA and the law declared by Hon'ble the Supreme Court in the case of **Rajeev Bansal (supra)**.

22. Accordingly, the writ petition deserves to be and is hereby allowed. The impugned order dated 23.07.2022 passed under Section 148A(d) of the Act of 1961 and the consequential notice of even date issued under Section 148 of the Act of 1961, pertaining to Assessment Year 2014-15, are quashed and set aside being barred by limitation.

23. The writ petition is allowed in the aforesaid terms.

DINESH MEHTA
(JUDGE)

ADITI CHOUDHARY
(JUDGE)

NOVEMBER 19, 2026/*sid*

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