



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
WRIT PETITION NO.450 OF 2023**

Godrej Industries Ltd. )  
2<sup>nd</sup> Floor, Godrej One, Pirojshanagar, Eastern Express )  
Highway, Vikhroli (East), Mumbai – 400 079 ) ....Petitioner

V/s.

1. The Assistant Commissioner of Income Tax, Circle )  
14(1)(2), Mumbai, Room No.455, 4<sup>th</sup> Floor, Aayakar )  
Bhavan, Maharishi Karve Road, Mumbai – 400 020 )  
2. The Principal Chief Commissioner of Income Tax, )  
Mumbai, Room No.321, 3<sup>rd</sup> Floor, Aayakar Bhavan, )  
Maharishi Karve Road, Churchgate, Mumbai – 400 )  
020 )  
3. National Faceless Assessment Centre, New Delhi )  
4. Union of India, )  
Through Joint Secretary & Legal Adviser, Branch )  
Secretariat, Department of Legal Affairs, Ministry of )  
Law and Justice, 2<sup>nd</sup> Floor, Aayakar Bhavan, M.K. )  
Road, New Marine Lines, Mumbai – 400 020 ) ....Respondents

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Mr. P.J. Pardiwalla, Senior Advocate a/w. Mr. Jeet Kamdar i/b. Mr. Atul K. Jasani for petitioner.  
Mr. Suresh Kumar for respondents.

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**CORAM : K. R. SHRIRAM &  
DR. NEELA GOKHALE, JJ.  
RESERVED ON : 12<sup>th</sup> FEBRUARY 2024  
PRONOUNCED ON : 28<sup>th</sup> FEBRUARY 2024**

**JUDGMENT (PER K.R. SHRIRAM, J.) :**

1 This petition challenges show cause notice dated 24<sup>th</sup> May 2022 issued under Section 148A(b) of the Income Tax Act, 1961 (the Act), order dated 31<sup>st</sup> July 2022 passed under Section 148A(d) of the Act (the impugned order) and notice dated 31<sup>st</sup> July 2022 issued under Section 148

of the Act (the impugned notice). According to petitioner the same are without jurisdiction inasmuch as they have been issued without complying with the jurisdictional pre-conditions referred to in Sections 147, 148, 148A, 149 and 151 of the Act.

2 Petitioner has raised the following grounds :

(a) the impugned notice is issued beyond the period of limitation provided for in Section 149 of the Act and hence, the impugned notice is bad in law;

(b) there exists no 'information' as the said term is understood in view of Explanation 1 to Section 148 of the Act;

(c) the impugned notice is issued during the pendency of reassessment proceedings pursuant to an earlier notice under Section 148 of the Act dated 21<sup>st</sup> May 2021 and, therefore, is illegal. The directions given by the Hon'ble Supreme Court in its judgment in ***Union of India V/s. Ashish Agarwal***<sup>1</sup> are not applicable to petitioner's case as no writ petition was filed by petitioner challenging the notice dated 21<sup>st</sup> May 2021 issued under Section 148 of the Act. Hence, the notice dated 21<sup>st</sup> May 2021 issued under Section 148 of the Act cannot be deemed to be a notice issued under Section 148A(b) of the Act;

(d) there is no income chargeable to tax which is represented in the form of an asset which has escaped assessment and hence, the

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1 (2022) 444 ITR 1 (SC)

extended period of time limit specified in Section 149(1)(b) of the Act cannot apply to petitioner;

(e) respondent no.1 has no power to review his own assessment when the same information was provided and considered by him during the original assessment proceedings. There cannot be a reopening based on a 'change of opinion';

(f) the approval obtained/granted under Section 151 of the Act is without application of mind;

(g) even on merits no income has escaped assessment for the reasons stated in the impugned order.

3 With the consent of the parties, it was decided to first discuss the preliminary issue, i.e., whether the notice is issued beyond the period of limitation. It was felt, if petitioner would succeed on this aspect of limitation, the other grounds of challenge need not be gone into. Therefore, the Court instructed the counsels to restrict their submissions on the preliminary issue of limitation.

4 Apart from this petition, there are many other pending petitions pertaining to AY 2014-15, where, the validity of the notice issued under Section 148 of the Act pursuant to *Ashish Agarwal* (Supra) is challenged on the ground of being barred by limitation.

5 **Mr. Pardiwalla submitted as under :**

(a) as per the unamended Section 149(1)(b) of the Act, the outer time limit to issue a notice under Section 148 of the Act was 6 years from the end of the relevant assessment year and, thus, for AY 2014-15, the time limit to issue a notice under Section 148 of the Act expired on 31<sup>st</sup> March 2021. Under the amended provisions, notice under Section 148 of the Act can be issued within a period of 3 years or 10 years, the latter available only after fulfilling certain stipulated conditions. The first proviso to Section 149(1) of the Act restricts the applicability of the aforesaid period of 10 years by providing that no notice under Section 148 can be issued at any time in a case for any assessment year, if a notice under Section 148 of the Act could not have been issued at that time on account of being beyond the time limit specified under the unamended Section 149(1)(b) of the Act, i.e., as it stood prior to the Finance Act, 2021. Therefore, even under the amended provisions the time limit to issue a notice under Section 148 of the Act for AY 2014-15 expired on 31<sup>st</sup> March 2021 based on the first proviso to Section 149(1) of the Act and the impugned notice issued on 31<sup>st</sup> July 2022 is barred by limitation;

(b) the provisions of Section 149 of the Act provide a time limit to issue a notice under Section 148 of the Act and hence, the validity of reassessment proceedings have to be tested on the anvil of the applicability of Section 149 of the Act qua the notice issued under Section 148 of the Act

and not having regard to the date when the notice under Section 148A(b) of the Act is issued or the order under Section 148A(d) of the Act is passed. This Court has confirmed this principle of law in ***The New India Assurance Company Limited V/s. Assistant Commissioner of Income Tax, Circle 3(2) (1), Mumbai & Ors***<sup>2</sup>;

(c) the Hon'ble Calcutta High Court in ***Ved Prakash Mittal V/s. Union of India & Ors***<sup>3</sup> applied the first proviso to Section 149(1) of the Act and held that the notice issued under Section 148 of the Act for AY 2014-15 in July 2022 was barred by limitation. The Hon'ble Rajasthan High Court in ***Sudesh Taneja V/s. Income Tax Officer, Ward 1(3), Jaipur***<sup>4</sup> held that no notice under Section 148 of the Act would be issued for the past assessment years by resorting to the larger period of limitation prescribed in newly substituted clause (b) of Section 149 of the Act and the notice issued after 1<sup>st</sup> April 2021 would be in terms of the substituted Section 149(1) of the Act without breaching the upper time limit provided in the original Section 149(1) of the Act which stood substituted;

(d) Sections 147 to 151 of the Act are procedural laws and the provisions as existing on the date when such notices are issued are to be considered. It is a settled position that the validity of a notice issued under Section 148 of the Act must be seen on the basis of the law existing on the

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<sup>2</sup> 2024 SCC Online Bom 146

<sup>3</sup> Writ Petition No.2450 of 2022 dated 26<sup>th</sup> August 2022

<sup>4</sup> (2022) 442 ITR 289

date on which the notice is issued. Therefore, the validity of the impugned notice must be tested on the basis of the law which exists at the time when the notice was issued i.e. 31<sup>st</sup> July 2022. This Court has confirmed this principle of law in the following judgments :

(i) *The New India Assurance Company Limited* (Supra);

(ii) *Siemens Financial Services Private Limited V/s. Deputy Commissioner of Income Tax & Ors.*<sup>5</sup>;

(iii) *Tata Communications Transformation Services Ltd. V/s. Assistant Commissioner of Income Tax*<sup>6</sup>.

(e) Issuance of a notice under Section 148 of the Act after 1<sup>st</sup> April 2021 is permissible only after complying with the newly introduced provisions under Finance Act, 2021. If an assessee had a vested right in him that no proceedings could be initiated after 31<sup>st</sup> March 2021 for the AY 2014-15 in terms of the unamended provisions, the same notices which became time barred could not be revived by virtue of the application of the extended period provided for in Section 149(1)(b) of the Act from 1<sup>st</sup> April 2021. This Court in *The New India Assurance Company Limited* (Supra) at paragraphs 23 and 36 has agreed with this view;

(f) Section 3(1) of The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 [TOLA] extended the limitation period for issuing a notice under the Act, which fell during the

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5 (2023) 457 ITR 647 (Bom)

6 (2022) 443 ITR 49 (Bom)

period 20<sup>th</sup> March 2020 to 31<sup>st</sup> March 2021, till 30<sup>th</sup> June 2021 by Notification No.20/2021 and 38/2021 dated 31<sup>st</sup> March 2021 and 27<sup>th</sup> April 2021, respectively, thereby extending the end date for completion of any action relating to issuance of notice under Section 148 of the Act. The Explanation to the two notifications, viz., Notification No.20/2021 and 38/2021 which sought to extend the applicability of the erstwhile Sections 148, 149 and 151 as they stood as on 31<sup>st</sup> March 2021 beyond the period of 31<sup>st</sup> March 2021 were declared ultra vires the TOLA. The purpose of Section 3(1) of TOLA was to enable the Central Government to issue notification for extending limitation periods as provided in the specified Act but not to postpone applicability of the amended provisions. The provisions of TOLA and the subsequent notifications issued thereunder cannot apply post 1<sup>st</sup> April 2021 when the new reassessment provisions were introduced by Finance Act, 2021. The theory of notice issued under Section 148 of the Act after 31<sup>st</sup> March 2021 relating back to the original date or that the clock is stopped on 31<sup>st</sup> March 2021 and the provisions as existing on such date will be applicable based on TOLA stands specifically rejected by this Court in *Tata Communications Transformation Services Ltd.* (Supra) and the Hon'ble Delhi High Court in *Mon Mohan Kohli V/s. ACIT*<sup>7</sup> which have both been affirmed by the Hon'ble Supreme Court in *Ashish Agarwal* (Supra). Therefore, TOLA can have no application to relate back the impugned

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7 (2022) 441 ITR 207

notice issued under Section 148 of the Act to an earlier date;

(g) this Court in *Siemens Financial Services Private Limited* (Supra) at paragraphs 28 to 31 held that the Instruction is erroneous in regard to the travel back theory to the original date.

This Court in *The New India Assurance Company Limited* (Supra) specifically rejected the Revenue's contention that the reopening notice was to relate back to an earlier date and held the same to be entirely flawed and unacceptable.

Further, the Revenue cannot seek to take shelter of TOLA as a subordinate legislation cannot override any statute enacted by the Parliament. This Court has upheld this principle in *Siemens Financial Services Private Limited* (Supra).

Further, the Hon'ble Allahabad High Court in *Ashok Kumar Agarwal V/s. Union of India*<sup>8</sup> held that TOLA is an enactment to extend timelines only and all references to issuance of notice contained in TOLA from 1<sup>st</sup> April 2021 must be read as reference to the substituted provisions only. Hence, TOLA and the subsequent notifications have no application to AY 2014-15 to extend the time limit to issue a notice under Section 148 of the Act as the first proviso to Section 149(1) of the Act puts a fetter on issuing a notice under Section 148 of the Act beyond the stipulated period. Hence, the impugned notice issued on 31<sup>st</sup> July 2022 is barred by limitation

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8 (2021) 131 taxmann.com 22 (Allahabad)



and TOLA has no role to play and it cannot salvage the impugned notice;

(h) the Instruction No.1 of 2022 issued by CBDT is misplaced and the entire foundation of permitting issuance of notice for AY 2014-15 is on the theory of relating back which has been specifically rejected by this Court as well as other High Courts. The Instruction is contrary to the provisions of the Act and bad in law as held by the Delhi High Court in ***Ganesh Dass Khanna V/s. Income Tax Officer and Anr.***<sup>9</sup> Further, the Hon'ble Supreme Court in ***Hindustan Aeronautics Ltd. V/s. CIT***<sup>10</sup> held that circulars/instructions are only binding on the Revenue and not on the assesseees or Hon'ble Courts;

(i) the notice under Section 148 of the Act cannot be issued in order to reopen the assessment in a case where the right to reopen the assessment was already barred under the pre-amended Act on the date when the new legislation came into force. Reliance is placed on the decision of the Hon'ble Supreme Court in ***CIT V/s. Onkarmal Meghraj (HUF)***<sup>11</sup> and hence, for AY 2014-15 the time limit to issue a notice under Section 148 of the Act has already expired on 1<sup>st</sup> April 2021. This Court in ***The New India Assurance Company Limited*** (Supra) has accepted this principle in paragraph 36.

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9 WP(C) No.11527 of 2022 & CM Appl. No.34097 of 2022 dated 10<sup>th</sup> November 2023

10 (2000) 243 ITR 808 (SC)

11 (1974) 93 ITR 233 (SC)

6 In the affidavit in reply filed various grounds have been raised almost identical to the grounds which were considered and dealt with in *The New India Assurance Company Limited* (Supra). Mr. Suresh Kumar in fairness submitted that he would only make two further submissions in addition to what was made in *The New India Assurance Company Limited* (Supra) by the Revenue. The Revenue's submissions in *The New India Assurance Company Limited* (Supra) have been recorded in paragraph 17 and further dealt with particularly in paragraph 37 therein.

7 **Mr. Suresh Kumar further submitted as under :**

(a) the AY is 2014-15. The time to issue notice was extended under TOLA by Notification No.20 of 2021 dated 31<sup>st</sup> March 2021 and further by Notification No.38 of 2021 dated 27<sup>th</sup> April 2021 upto 30<sup>th</sup> June 2021. (Mr. Pardiwalla did not dispute this);

(b) notice issued under Section 148 of the Act in this case was issued on 21<sup>st</sup> May 2021, thus the same was within time as per Section 148 of the Act read with Notification Nos.20 and 38 of 2021;

(c) the Hon'ble Supreme Court in case of *Ashish Agarwal* (Supra) vide order dated 4<sup>th</sup> May 2022 issued direction and the same was complied with and final notice under Section 148 of the Act was issued on 31<sup>st</sup> July 2022. The sanction was granted by authority under Section 151 (ii) of the Act being notice issued beyond 3 years;

(d) since the issuance of notice under Section 148 of the Act was within the time limit provided in Notification referred above and as per direction of Hon'ble Supreme Court the notice issued under Section 148 and 148A(d) of the Act was deemed to be issued within the time granted by Hon'ble Supreme Court. The proviso (5) to Section 149 do provide for exclusion of certain periods. Thus period from 21<sup>st</sup> May 2021 read with Hon'ble Supreme Court's judgment required to be considered. Thus the notice is in time and not barred by limitation;

(e) the first proviso to Section 149 of the Act reads as under :

*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 1 day of April, 2021 [if a notice u/s 148 or section 153A or section 153C could not have been issued at that time on account being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of the section or section 153A or Section 153C, as the case may be), as they stood immediately before the commencement of the Finance Act, 2021.*

The proviso speaks about issuing of notice, if issuing of notice is time barred as on 1<sup>st</sup> April 2021 then notice can not be issued for relevant assessment year. For AY 2014-15, the time to issue notice was extended upto 30<sup>th</sup> June 2021. Thus the proviso is not applicable in this case of assessment year where time to issue notice under Section 148 of the Act is available beyond 1<sup>st</sup> April 2021, i.e., upto 30<sup>th</sup> June 2021. The said proviso is not applicable and period to issue notice is 10 years as per sub clause (b) of sub-section (1) of Section 149 of the Act. Thus in both events the issuing

of notice as on 30<sup>th</sup> June 2021 is in time.

All other submissions made in case of *The New India Assurance Company Limited* (Supra) were not repeated.

**FINDINGS :**

8 In view of our findings in *The New India Assurance Company Limited* (Supra) for AY 2013-14 where we have held that the notice issued under Section 148 of the Act was barred by limitation and all the submissions other than the two submissions noted above of Mr. Suresh Kumar have been dealt with, we see no reason to deal with those submissions again. We have to now only consider whether the submissions made by Mr. Suresh Kumar, as noted above, make any difference. In our view, it does not, and the notice issued for AY 2014-15 is barred by limitation.

9 Before we proceed further with the submissions made by Mr. Suresh Kumar, it will be useful to reproduce our findings in *The New India Assurance Company Limited* (Supra) which read as under :

*19 . Section 148 of the Act reads as under :*

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*Section 148A of the Act reads as under :*

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*Section 149 of the Act read as under :*

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20. *The validity of a notice issued under Section 148 of the Act must be judged on the basis of the law existing on the date on which such notice is issued. A Division Bench of this Court in Siemens Financial (Supra) followed what was held in Tata Communications (Supra) to hold that the validity of a notice issued under Section 148 of the Act must be judged on the basis of the law existing on the date on which such notice is issued. Paragraphs 34 and 35 of Tata Communications (Supra) read as under :*

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21. *The Apex Court in Ashish Agarwal (Supra) did not disturb the findings of this Court in Tata Communications (Supra). The Apex Court only modified the orders passed by the respective High Courts to the effect that the notices issued under Section 148 of the Act, which were subject matter of writ petitions before various High Courts, shall be deemed to have been issued under Section 148A(b) of the Act and the Assessing Officer was directed to provide within 30 days to the respective assessee the information and material relied upon by the Revenue so that the assessee could reply to the show cause notices within two weeks thereafter. The Apex Court held that the Assessing Officer shall thereafter, pass orders in terms of Section 148A(d) in respect of each of the concerned assessee and having followed the procedure as required under Section 148A of the Act may issue notice under Section 148 of the Act. The Apex Court also kept open expressly all contentions which may be available to the assessee including those available under Section 149 of the Act and all rights and contentions, which may be available to the concerned assessee and Revenue under the Finance Act, 2021 and in law, shall be continued to be available. This was done by the Apex Court to strike a balance between the rights of both the parties. Therefore, the validity of the reopening notice to petitioner must be decided on the basis of law which exists at the time when such a notice was issued, i.e., 28<sup>th</sup> July 2022.*

22. *As per the unamended Section 149(1)(b) of the Act, the outer time limit to issue a notice under Section 148 was 6 years from the end of the relevant assessment year and thus, for AY 2013-14, the time limit expired on 31<sup>st</sup> March 2020. Under the amended provision, a notice under Section 148 can be issued within a period of 3 years or 10 years, the latter available only after fulfilling certain stipulated additional conditions, including the limitation provided for by the first proviso to Section 149(1) of the Act. The first proviso to Section 149(1) stipulates that no notice under Section 148 can be issued at any time in a case for any*

*assessment year, if a notice under Section 148 could not have been issued at that time on account of being beyond the time limit specified under the unamended Section 149(1)(b), i.e., as it stood prior to the Finance Act, 2021. Applicability of Section 149 to be seen qua the notice under Section 148 and not with respect to the notice issued under Section 148A(b) or the order passed under Section 148A(d) of the Act.*

*23. In the present case, as for AY 2013-14, the 6 years period expired on 31<sup>st</sup> March 2021, extended under Section 3(1) of TOLA. Therefore, the impugned notice dated 28<sup>th</sup> July 2022, which is under challenge in the petition, is barred by limitation. The Hon'ble Calcutta High Court in Ved Prakash (Supra) held "By this writ petition, petitioner has challenged the impugned order under Section 148 A(d) of the Income Tax Act, 1961 dated 29<sup>th</sup> July, 2022, relating to the assessment year 2014-2015 on the ground that the same being without jurisdiction and being barred by limitation since the initiation of re-opening of the assessment has been made admittedly after six years from the end of the expiry of the period of relevant assessment year. Mr. Roychowdhury, learned Counsel appearing for the respondent is not in a position to contradict the aforesaid factual and legal position. Accordingly, this writ petition being WPO No.2450 of 2022 is disposed of by quashing the aforesaid impugned order dated 29<sup>th</sup> July, 2022." Prior thereto, the Rajasthan High Court in Sudesh Taneja (Supra), which was followed by this Court in Tata Communications (Supra), in paragraph 37 held as under :*

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*In Sudesh Taneja (Supra), the Court held that for any action of issuance of notice under Section 148 after 1<sup>st</sup> April 2021 the newly introduced provisions under the Finance Act, 2021 would apply. Mere extension of time limits for issuing notice under Section 148 would not change this position that obtains in law. The Court held that a notice, which had become time barred prior to 1<sup>st</sup> April 2021 as per the then prevailing provisions, would not be revived by virtue of application of Section 149(1)(b) effective from 1<sup>st</sup> April 2021. We respectfully agree with this view. As noted earlier in Ashish Agarwal (Supra), the Hon'ble Supreme Court categorically confirmed the view taken by various High Courts including the Hon'ble Rajasthan High Court. Therefore, the impugned notices pertaining to AY 2013-14 pursuant to Ashish Agarwal (Supra) are barred by limitation.*

*24. We could also note that the provisions of TOLA have no application relating to AY 2013-14. Section 3(1) of TOLA*

reads as under :

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25. The limitation for AY 2013-14 expired on 31<sup>st</sup> March 2020, which by virtue of Section 3(1) of TOLA, got extended to 31<sup>st</sup> March 2021. This was followed by a Notification dated 31<sup>st</sup> March 2021 being Notification S.O. 1432(E) [No.20/2021/F.No.370142/35/2020-TPL], which read as under :

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*This Notification, therefore, says that where the specified Act is the Income Tax Act, 1961 and the completion of any action referred to in clause (a) of sub-section (1) of Section 3 of TOLA relates to issuance of notice under Section 148 as per time limit specified in Section 149 and 31<sup>st</sup> day of March 2021 is the end date of the period during which the time limit, specified in, or prescribed or notified under the Income Tax Act falls for the completion of such action, then, 30<sup>th</sup> day of April 2021 shall be the extended end date for the completion of such action. Therefore, this would apply only for AY 2014-15 because it says completion of any action when it relates to issuance of notice under Section 148 'as per time limit specified in Section 149' is 31<sup>st</sup> March 2021 it shall be extended to 30<sup>th</sup> April 2021. It does not say "as per time limit specified under Section 149 as extended by TOLA". For AY 2014-15, the 6 years period will end on 31<sup>st</sup> March 2021, whereas the time limit prescribed under Section 149 for AY 2013-14 is 31<sup>st</sup> March 2020. This is reiterated by the Explanation in the Notification which says for the removal of doubts, it is hereby clarified that for the purposes of issuance of notice under Section 148 as per time limit specified in Section 149 under this sub-clause, the provisions of Section 149, as they stood as on the 31<sup>st</sup> March 2021, before the commencement of the Finance Act, 2021, shall apply. The date of the Notification is also relevant and it is 31<sup>st</sup> March 2021.*

26. Another Notification dated 27<sup>th</sup> April 2021 being Notification S.O. 1703(E) [No.38/2021/F.No.370142/35/2020-TPL] came to be issued where a specific reference is made to Notification S.O.1432(E) dated 31<sup>st</sup> March 2021 and it also says - ' the Central Government hereby specifies for the purpose of sub-section (1) of Section 3 of TOLA.' It is stated, where the specified Act is the Income Tax Act, 1961, the completion of any action, referred to in clause (a) of sub-section (1) of Section 3 of TOLA, relates to issuance of notice under Section 148 as per time limit specified in Section 149

*and 'the time limit for such action expires on 30<sup>th</sup> April 2021 due to its extension by the said Notifications', such time limit shall further stand extended to 30<sup>th</sup> June 2021. The Notification dated 27<sup>th</sup> April 2021 reads as under :*

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*Therefore, it only extends the time limit prescribed in Notification S.O. 1432(E) to 30<sup>th</sup> June 2021. When the Notification S.O. 1432(E) was not applicable to AY 2013-14, the question of time limit for AY 2013-14 being extended beyond 31<sup>st</sup> March 2021 does not arise.*

*27. Therefore, under the Income Tax Act, when the completion of any action relates to issuance of notice under Section 148 as per time limit specified in Section 149 was 31<sup>st</sup> March 2021, it shall stand extended to 30<sup>th</sup> April 2021. The time limit under Section 149 expired on 31<sup>st</sup> March 2021 only for AY 2014-15 (and not for AY 2013-14, which expired on 31<sup>st</sup> March 2020) and has got extended by virtue of clause (a) of sub-section (1) of Section 3 of TOLA. The Notification does not say "issuance of notice under Section 148 as per time limit specified in Section 149 as extended under sub-section (1) of Section 3 of TOLA". Therefore, the provisions of TOLA cannot apply. Also the Notifications thereunder do not apply to the case at hand for AY 2013-14.*

*28. It is required to be noted that the Apex Court, while enabling the Revenue to restart the reassessment proceedings in Ashish Agarwal (Supra), categorically held that the old Section 148 notices were to be treated as show cause notices in terms of Section 148A(b) and not a notice under Section 148 of the Act and, therefore, the mandatory procedure stipulated in Section 148A was to be followed. Thereafter, the Assessing Officers were authorised to issue the notice under the amended Section 148 of the Act. The first proviso to Section 149(1) of the Act puts a fetter on issuing of a notice under Section 148 and not Section 148A(b) of the Act beyond the stipulated period. The impugned notice under Section 148 of the Act is issued on 28<sup>th</sup> July 2022. Hence, TOLA has no application.*

*29. This Court in Siemens Financial (Supra), in paragraph 26, has held as under :*

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*30. The Allahabad High Court in Ashok Kumar Agarwal V/s. Union of India held that TOLA is an enactment to extend*



*timelines only. Consequently, all references to issuance of notice contained in TOLA from 1<sup>st</sup> April 2021 must be read as reference to the substituted provisions only. Paragraph 66 of Ashok Kumar Agarwal (Supra) reads as under :*

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*In our view, TOLA has no role to play and it cannot salvage the notice under challenge.*

*31. Reliance by respondents on Instruction No.1 of 2022 issued by CBDT is also grossly misplaced. Neither the provisions of TOLA nor the judgment in Ashish Agarwal (Supra) provide that any notice issued under Section 148 of the Act after 31<sup>st</sup> March 2021 will travel back to the original date. This very argument was urged in the challenge to the initial reassessment and was categorically rejected by this Court in Tata Communications (Supra) as well as the Delhi High Court in Mon Mohan Kohli (Supra). Paragraphs 37 and 38 of Tata Communications (Supra) read as under :*

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*Both these judgments, i.e., Tata Communications (Supra) and Mon Mohan Kohli (Supra), have been affirmed in Ashish Agarwal (Supra).*

*32. Further, in Siemens Financial (Supra), this Court has held that the Instruction is erroneous in this regard, i.e., travel back to the original date. Paragraphs 28 to 31 of the said judgment read as under :*

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*33. In Ganesh Dass Khanna (Supra), the Delhi High Court has already declared paragraph 6.1 and 6.2(ii) of the Instructions as bad in law. Further, this Court in Group M Media India P. Ltd. (Supra) has held that a declaration of a Board's instruction as ultra vires by a competent Court would be binding on all authorities administering the Act all over the country and accordingly, the officers implementing the Act were bound by the decision of the Delhi High Court. Paragraphs 44.4, 49, 51, 52 and 55 of Ganesh Dass Khanna (Supra) read as under :*

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*Paragraphs 6 and 8 of Group M Media India P. Ltd. (Supra) read as under :*

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34. It will be also useful to note that even in *Hindustan Aeronautics Ltd. (Supra)* the Apex Court has held that circulars/instructions are only binding on the Revenue and not on the assessee and certainly not on the Hon'ble Courts.

35. The Revenue's contention that the reopening notice was to relate back to an earlier date is entirely flawed and unacceptable. Thus, the reassessment notices issued for AY 2013-14 are patently barred by limitation as the six years limitation period under the Act (as extended by Section 3 of TOLA) expired by 31<sup>st</sup> March 2021. However, even on the Revenue's demurrer and assuming that such reopening notices could travel back in time and that the provisions of TOLA protected such reopening notices (we do not agree), even then, in so far as the notices issued for AY 2013-14 is concerned, would in any case be barred by limitation. As stated earlier, under the erstwhile Section 149, a notice under Section 148 could have been issued within a period of six years from the end of the relevant assessment year. The Notifications issued under TOLA, viz., Notification No.20/2021, which is relied upon by the Revenue, only cover those cases where 31<sup>st</sup> March, 2021 was the end date of the period during which the time limit, specified in, or prescribed or notified under the Income Tax Act falls for completion. The limitation under the Income Tax Act, 1961 (erstwhile Section 149) for reopening the assessment for the AY 2013-14 expired on 31<sup>st</sup> March 2020. Hence, Notification No.20/2021 did not apply to the facts of the present case, viz., reopening notice for the AY 2013-14. Therefore, the Revenue could not issue any notice under Section 148 beyond 31<sup>st</sup> March 2021 and hence, even the relate back theory of the Revenue could not safeguard the reassessment proceedings initiated after 1<sup>st</sup> April 2021 for AY 2013-14.

36. Therefore, in the present case, as the foundation of the entire reassessment proceeding, viz., the notice issued in June 2021 itself was barred by limitation in view of non-applicability of Notification No.20/2021, the superstructure sitting thereon, viz., the reassessment proceedings initiated pursuant to judgment in *Ashish Agarwal* will also be regarded as beyond time limit. Therefore, on this ground as well, the impugned reopening notice dated 28<sup>th</sup> July 2022 issued for AY 2013-14 in petitioner's case is barred by limitation and deserves to be quashed and set aside. Alternatively, it is well settled that a notice under Section 148 of the Act cannot be issued in order to reopen the assessment of an assessee in a case where the right to reopen the assessment was already barred under the pre-amended Act

*on the date when the new legislation came into force. In CIT V/s. Onkarmal Meghraj (HUF) the Hon'ble Apex Court held :*

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*For AY 2013-14, the time limit to issue a notice under Section 148 of the Act had already expired on 1<sup>st</sup> April 2021. On the said date, the assessee had a vested right, which de hors the 1<sup>st</sup> proviso to the amended Section 149 of the Act, could not be taken away and thus, based on the well settled principles of law, the reopening of the AY 2013-14 after 31<sup>st</sup> March 2021 is invalid, without jurisdiction and barred by limitation.*

*37. We shall deal with Mr. Sharma's submissions as under :*

*(a) As regards reliance on the provisions of the Limitation Act, 1963, the provisions of the Limitation Act, 1963 do not apply to the provisions of the Income Tax Act, 1961 and especially, not in the present case in view of the specific period provided for in the provisions of the Act as well as TOLA. In any case, this defence of respondents cannot be sustained as they have not taken any such contention in either the order passed under Section 148A(d) or in the affidavit in reply;*

*(b) As regards applicability of Section 3 of TOLA - exclusion of Covid period, this argument is, in effect, nothing but the theory of travel back in time which was urged by the Revenue to support the reopening notices issued between 1<sup>st</sup> April 2021 to 30<sup>th</sup> June 2021 before this Court, as well as other High Courts [and which eventually led to the judgment in Ashish Agarwal (Supra)]. As noted earlier, this Court and other Courts have already snubbed the relate back/travel back in time theory and also the Instruction No.1 of 2022;*

*(c) As regards applicability of Notifications No.20 of 2021 dated 31<sup>st</sup> March 2021 and No.38 of 2021 dated 27<sup>th</sup> April 2021 extending the time limit even for AY 2014-15 and it is extended till 30<sup>th</sup> June 2021, respondent, in other words, argues that the Notification No.20 of 2021 seeks to extend the time limit inter alia for issuing notice under Section 148 which was expiring on 31<sup>st</sup> March 2021 not only under the provisions of the Act, but would also include the time extension in the Act by virtue of TOLA. To put in another way, the time limit expiring on 31<sup>st</sup> March 2021 specified in Notification No.20 of 2021, according to respondents, would have to be read to include limitation under the Act read with TOLA. As noted earlier, this contention is flawed inasmuch as it expands the scope of the Notification and violates its plain language, viz., the time limit, specified in, or prescribed or*

*notified under the Income Tax Act falls for completion. The limitation under the Act (erstwhile Section 149) for reopening the assessment for the AY 2013-14 expired on 31<sup>st</sup> March 2020. Hence, Notification No.20 of 2021 did not apply to the facts of the present case. Notification No.38 of 2021 dated 27<sup>th</sup> April 2021 categorically uses the expression the time limit for completion of such action expires on the 30<sup>th</sup> day of April 2021 due to its extension by the said notifications, such time limit shall further stand extended to the 30<sup>th</sup> day of June 2021. Hence, it is incorrect to say that 31<sup>st</sup> March 2021 under the Act would mean under the Act, plus, extension by TOLA;*

*(d) The submission that the Hon'ble Supreme Court, while deciding Ashish Agarwal (Supra), was conscious of the limitation of 6 years expiring on 31<sup>st</sup> March 2021 under the pre-amendment provisions in respect of AY 2013-14 if the Covid period was not excluded, despite which the Apex Court has stated that all notices issued should be read to be issued under Section 148A to prevent the Revenue getting remediless, is unacceptable. This argument clearly fails to appreciate that the effect of Revenue's contention is that despite the substantive defence available to the assessee in Section 149 of the amended Act, as well as the express directions of the Hon'ble Supreme Court allowing the assessee to take all defences available under the Act, the judgment of Ashish Agarwal (Supra) would permit them to reopen the assessment of AY 2013-14 would not only make the defence expressly available to the assessee useless and unusable, but would be contrary to well established principles of law. In Supreme Court Bar Association (Supra), the Hon'ble Supreme Court espoused that its powers conferred under Article 142 of the Constitution of India, being curative in nature and even with the width of its amplitude, cannot be construed as powers which authorise the Court to ignore the substantive rights of a litigant while dealing with a cause pending before it. Article 142 would not be used to supplant substantive law applicable to a case or cause and it will not be used to build a new edifice where none existed earlier by ignoring express statutory provisions dealing with a subject and thereby to achieve something indirectly which cannot be achieved directly. In the present case, Revenue's argument, if accepted, would be in conflict with the above law as despite the express language of 1<sup>st</sup> proviso to Section 149, reopening notice for the AY 2013-14 would be permitted to be issued beyond 6 years on the pretext that the Hon'ble Supreme Court in exercise of its powers under Article 142 permitted them to do so and otherwise, they would be remediless. On the contrary, while permitting the Revenue to re-initiate the reassessment*

*proceedings, the Apex Court also granted liberty to assesseees to raise all defences available to the assessee including the defences under Section 149 of the Act. The Apex Court observed that its order will strike a balance between the rights of the Revenue as well as the respective assesseees. Moreover, in Siemens Financial (Supra), this Court has already considered a similar contention of the Revenue and held that equity has no place in taxation or while interpreting taxing statute such intendment would have any place and that taxation statute has to be interpreted strictly. The Revenue also fails to appreciate that no particular case was considered by the Hon'ble Supreme Court while deciding Ashish Agarwal (Supra).*

*It is apposite to cite here an extract of the judgment of the Hon'ble Supreme Court in Parashuram Pottery Works Co. Ltd V/s. Income Tax Officer, which reads as under :*

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*(e) The contentions that (i) the true meaning of Apex Court order in Ashish Agrawal (Supra) is that the notices issued under Section 148, irrespective of the Assessment Year of the unamended Act, between 1<sup>st</sup> April 2021 to 30<sup>th</sup> June 2021 are to be treated as show cause notices without being hit by limitation, if issued on or before 30<sup>th</sup> March 2021 and (ii) the defence under Section 149 available to the assessee would mean that if the Revenue had issued any notice under Section 148 under the unamended Act during the period 1<sup>st</sup> April 2021 to 30<sup>th</sup> June 2021 pertaining to AY 2013-14, the same would be barred by limitation under Section 149 in effect means the Civil Appeal of the Revenue in Ashish Agrawal (Supra) was dismissed, are completely flawed. It completely fails to appreciate that the limitation period to issuance of reopening notices under Section 148 for all Assessment Years prior to AY 2013-14 had already expired on 31<sup>st</sup> March 2019 or earlier. The provisions of TOLA obviously could not save such a time limit and the Revenue could not have validly issued reopening notices for years prior to AY 2013-14 on or after 1<sup>st</sup> April 2019. Therefore, the defence so expressly allowed to be taken by the Hon'ble Supreme Court would otherwise be unnecessary;*

*(f) The submission that the Apex Court, in exercise of power under Article 142 of the Constitution, has deemed the notices issued between 1<sup>st</sup> April 2021 to 30<sup>th</sup> June 2021 under Section 148A(b) of the Act issued within limitation and by following the manner of computation of limitation provided in TOLA, the days from 1<sup>st</sup> April 2021 to 30<sup>th</sup> June 2021 would stand excluded and, therefore, the notices could be*

*deemed to be issued on 31<sup>st</sup> March 2021, we find it to be rather fallacious. The fallacy of this contention of Revenue is conspicuous inasmuch as if the notices issued under Section 148 between 1<sup>st</sup> April 2021 and 30<sup>th</sup> June 2021, which according to them, are deemed to be issued on 31<sup>st</sup> March 2021, then it is obvious that the provisions of the new reassessment law introduced by the Finance Act, 2021 cannot apply as they came into force w.e.f. 1<sup>st</sup> April 2021 and onwards. Ashish Agarwal (Supra) in no uncertain words stated that the new provisions have to apply to all such notices. Therefore, the argument urged is completely contrary to law as well as the binding directions of the Hon'ble Supreme Court;*

*(g) As regards reliance on Touchstone Holdings (Supra), the Hon'ble Delhi High Court held that the initial notice dated 29<sup>th</sup> June, 2021 issued under Section 148 is within limitation. No findings on the validity or otherwise of the notice issued after May 2022 pursuant to the judgment in Ashish Agarwal (Supra) is given. Moreover, in that case, petitioner did not argue that for AY 2013-14 the time limit would have expired even under TOLA on 31<sup>st</sup> March 2021;*

*(h) As regards Salil Gulati (Supra), the Delhi High Court, to reach its conclusion, has merely relied upon its earlier decision in Touchstone Holdings (Supra). It will be relevant to note that following Salil Gulati (Supra), a similar view was taken by the Delhi High Court in Yogita Mohan V/s. Income Tax Officer. Against the judgment, in an SLP preferred by the assessee, the Apex Court has issued notice vide its order dated 20<sup>th</sup> February 2023. It should also be noted that the Hon'ble Gujarat High Court in Keenara Industries (P) Ltd. V/s. Income Tax Officer and the Allahabad High Court in Rajeev Bansal V/s. Union of India have taken a view that notices issued for AY 2013-14 were barred by limitation in view of the amended Section 149 of the Act. Subsequently, the Apex Court, in SLPs preferred by the Revenue, has issued notice and stayed both the orders/judgments;*

*(i) We are unable to comprehend the contention raised that if the notice dated 30<sup>th</sup> May 2022 under Section 148A(b) of the Act is valid in terms of Apex Court order in Ashish Agrawal (Supra), then the notice under Section 148 of the Act cannot be issued on 31<sup>st</sup> March 2021 and respondent cannot be expected to do impossible. It has nowhere been urged by petitioner that assessing officer ought to complete the proceedings before the show cause notice under Section 148A(b) of the Act was issued. It is the case of petitioner that the reopening notice under Section 148 ought to have been issued within 6 years from the end of the AY 2013-14. This*

*limitation period, as extended by TOLA, expired on 31<sup>st</sup> March 2021. However, in the present case, the reopening notice has been issued in July 2022 and, therefore, beyond the statutory time limit. In any case, as stated above, the Hon'ble Supreme Court, while invoking powers under Article 142, consciously and categorically granted liberty to assesseees to raise all defences available to the assessee, including the defences under Section 149 of the Act. This specific and express directions cannot be set at naught. Accepting this contention of the Revenue would be a travesty of justice.*

*38. In the circumstances, in our view, the notice issued under Section 148 of the Act, impugned in this petition, for AY 2013-14 is issued beyond the period of limitation.*

*39. Having decided in favour of assessee/petitioner on this issue of limitation, we are not discussing the other grounds of challenge raised in the petition. Petitioner may raise all those contentions independently in any other proceeding.*

*40. Petition disposed accordingly. No order as to costs.*

10           The Revenue's stand in the affidavit in reply relying on Instruction No.1 of 2022 was that the impugned notice would travel back in time to the original date and for the first time now relies on the fifth proviso to Section 149 of the Act. Section 149 (1) of the Act reads as under :

*Time limit for notice. —*

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

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

*[(b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of -*

*(i) an asset;*

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

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

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

*Provided that no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1<sup>st</sup> day of April, 2021, if a notice under section 148 or section 153A or section 153C could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of this section or section 153A or section 153C, as the case may be, as they stood immediately before the commencement of the Finance Act, 2021:*

*Provided further that the provisions of this sub-section shall not apply in a case, where a notice under section 153A, or section 153C read with section 153A, is required to be issued in relation to a search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, on or before the 31<sup>st</sup> day of March, 2021:*

*[Provided also that for cases referred to in clauses (i), (iii) and (iv) of Explanation 2 to section 148, where,-*

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

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

*(c) requisition is made under section 132A,*

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

*Provided also that where the information as referred to in Explanation 1 to section 148 emanates from a statement recorded or documents impounded under section 131 or section 133A, as the case may be, on or before the 31<sup>st</sup> day of March of a financial year, in consequence of, -*



- (a) a search under section 132 which is initiated: or
- (b) a search under section 132 for which the last of authorisations is executed; or
- (c) a requisition made under section 132A,

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

*Provided also that for the purposes of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice issued under clause (b) of section 148A or the period during which the proceeding under section 148A is stayed by an order or injunction of any court, shall be excluded:*

*Provided also that where immediately after the exclusion period referred of the to in the immediately preceding proviso, the period of limitation available to the Assessing Officer for passing an order under clause (d) of section 148A [does not exceed seven days], such remaining period shall be extended to seven days and the period of limitation under this sub-section shall be deemed to be extended accordingly.*

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

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

11           The fifth proviso enacts that for computing the period of limitation under Section 149 of the Act, the following should be excluded :

(i) the time or extended time allowed to an assessee as per the show cause notice issued under Section 148A(b) of the Act; or

(ii) the period during which the proceedings under Section 148A of the Act is stayed by an order or injunction of any Court.

The first limb of the fifth proviso to Section 149 of the Act will apply where a show cause notice under Section 148A(b) of the Act is issued to an assessee and the time granted to him or the extended time subsequently granted to him to reply to the show cause notice would be excluded in computing the period of limitation. Therefore, the first limb of the proviso only excludes the time frame between the date when the notice under Section 148A(b) of the Act is issued and the date granted to the assessee to file its response.

12           Based on petitioner's facts, the show cause notice under Section 148A(b) of the Act was issued on 24<sup>th</sup> May 2022 asking petitioner to furnish a reply by 8<sup>th</sup> June 2022. Petitioner filed a detailed reply in response to the show cause notice on 8<sup>th</sup> June 2022 and, therefore, only the period from 24<sup>th</sup> May 2022 to 8<sup>th</sup> June 2022 could be excluded by virtue of the first limb of the fifth proviso to Section 149 of the Act. Subsequently, petitioner received another letter dated 28<sup>th</sup> June 2022 which annexed certain details and provided further time for making detailed submissions upto 8<sup>th</sup> July 2022. Petitioner replied to the letter and made detailed

submissions on 2<sup>nd</sup> July 2022. Therefore, even assuming this period is to be excluded, the period which could be excluded is only from 24<sup>th</sup> May 2022 to 8<sup>th</sup> June 2022. Even after considering the letter dated 28<sup>th</sup> June 2022 and the reply dated 2<sup>nd</sup> July 2022, at the highest a further period from 28<sup>th</sup> June 2022 to 8<sup>th</sup> July 2022 could be excluded but the period of time from 8<sup>th</sup> June 2022 to 28<sup>th</sup> June 2022 cannot be excluded as per the fifth proviso. This is because petitioner on 8<sup>th</sup> June 2022 did not request for any further time and furnished its response to the show cause notice under Section 148A(b) of the Act. It is the Assessing Officer who has *suo moto* issued another letter on 28<sup>th</sup> June 2022 asking petitioner to furnish further details by 8<sup>th</sup> July 2022. Therefore, even assuming a period of 27 days (i.e., 16 days from 24<sup>th</sup> May to 8<sup>th</sup> June and 11 days from 28<sup>th</sup> June to 8<sup>th</sup> July) are excluded from the date of the impugned notice under Section 148 of the Act issued on 31<sup>st</sup> July 2022, the impugned notice would yet be barred by limitation and could not have been issued by virtue of the first proviso to Section 149 of the Act.

13           The second limb of the fifth proviso to Section 149 of the Act will apply when the proceedings under Section 148A of the Act is stayed by an order or injunction of any Court. Since, petitioner has not filed a writ petition it has not received any stay or injunction from any Court till the date of the impugned notice, i.e., 31<sup>st</sup> July 2022, and hence, there can be no

period which can be excluded as per the second limb of the proviso. Petitioner has filed a writ petition against the impugned notice on 16<sup>th</sup> September 2022 and received ad-interim relief on 10<sup>th</sup> October 2022 where, this Court stayed the operation and effect of the impugned notice under Section 148 of the Act. However, the second limb of the proviso does not contemplate a situation where such period can be excluded.

14           The Hon'ble Supreme Court in *Ashish Agarwal* (Supra) only deemed the first notice issued under Section 148 of the Act to be a show cause notice under Section 148A(b) of the Act and left all defences available to the assessee under Section 149 of the Act. The Hon'ble Supreme Court in *Ashish Agarwal* (Supra) did not grant any stay and the period from 21<sup>st</sup> May 2021 till the notice under Section 148A(b) of the Act is issued cannot be excluded under the second limb of the fifth proviso or even under the first limb.

15           The validity of a notice must be judged on the basis of the law existing as on the date on which the notice is issued under Section 148 of the Act, which in the present case is 31<sup>st</sup> July 2022, by which time the Finance Act, 2021 is already on the statute and in terms thereof, no notice under Section 148 of the Act for AY 2014-15 could be issued on or after 1<sup>st</sup> April 2021 based on the first proviso to Section 149 of the Act. Therefore, the fifth proviso cannot apply in a case where the first proviso

applies because, if a notice under Section 148 of the Act could not be issued beyond the time period provided in the first proviso, then the fifth proviso could not save such notices. The fifth proviso can only apply where one has to determine whether the time limit of three years and ten years in Section 149(1) of the Act are breached.

16           The sixth proviso to Section 149 of the Act has no impact as it only provides a situation where after exclusion of the time period referred to in the fifth proviso, the time available with the Assessing Officer for passing an order under Section 148A(d) of the Act is less than 7 days, then the remaining time frame shall be extended to 7 days and limitation also stands extended by 7 days.

17           The notice under Section 148 of the Act issued on 31<sup>st</sup> July 2022, therefore, is barred by limitation. As per the fifth proviso to Section 149 of the Act only the period from 24<sup>th</sup> May 2022 to 8<sup>th</sup> June 2022 can be excluded since the notice under Section 148A(b) of the Act has been issued for the first time on 24<sup>th</sup> May 2022 providing time to petitioner till 8<sup>th</sup> June 2022 to furnish a reply. The Revenue is seeking to exclude a period from 21<sup>st</sup> May 2021 to 4<sup>th</sup> May 2022 relying on *Ashish Agarwal* (Supra) which, as explained earlier, cannot apply. Hence, the impugned notice dated 31<sup>st</sup> July 2022 is bad in law.

18            Having decided in favour of assessee/petitioner on this issue of limitation, we are not discussing the other grounds of challenge raised in the petition. Petitioner may raise all those contentions independently in any other proceeding.

19            Petition disposed accordingly. No order as to costs.

**(DR. NEELA GOKHALE, J.)**

**(K. R. SHRIRAM, J.)**