Selvakumar Vethamonickam Nadar vs The Income Tax Officer Ward 34(3)(2),

ID: F2J-C-2412 **Court:** Bombay High Court
Case: SLP (CIVIL) Diary No (s) 57209 of 2024 **Date:** 2025-12-24

Bombay High Court Selvakumar Vethamonickam Nadar vs The Income Tax Officer Ward 34(3)(2), ... on 24 December, 2025 Author: B. P. Colabawalla Bench: B. P. Colabawalla 2025:BHC-OS:26996-DB

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 41554OF 2025

Selvakumar Vethamonickam Nadar .. Petitioner Digitally signed by VINA Versus VINA ARVIND ARVIND KHADPE KHADPE Date: 2026.01.02 12:44:46 +0530 The Income Tax officer Ward 34(3)(2), Mumbai .. Respondent

Mr. Devendra H. Jain, Mr. Shashank A. Mehta, Mr. Sauykhya D. Lakade, Mr. Kashyap N. Chotani, Advocates for the Petitioner.

Mr. Ravi Rattesar, Advocate for the Respondent.

CORAM: B. P. COLABAWALLA & AMIT S. JAMSANDEKAR, JJ.

Date: DECEMBER 24, 2025

P. C.

1. Rule. made returnable forthwith. Respondents waive service. With the consent of parties, heard finally.

2. The present Petition has been filed primarily with a prayer to quash and set aside (i) the order passed under Section 148A(d), and the Notice issued under Section 148, both dated 23 rd April 2022 (Exhibit C and D); (ii) the reassessment order dated 11 th March 2024 passed under Section 147 read with Section 144 read with Section 144B of the Act; (iii) the notice of Page 1 of 7 DECEMBER 24, 2025 Rohit Ghuge (PA) ::: Uploaded on - 02/01/2026 ::: Downloaded on - 02/01/2026 21:42:29 ::: 14.os.WPL.41554.2025.doc demand of even date under Section 156 of the Act for the Assessment Year ('A.Y.') 2015-16 (Exhibit F1 and F2); as well as the consequential penalty orders and notices of demand thereof.

3. At the outset, it has been fairly stated by Mr. Jain, that the Petitioner herein has filed an Appeal against the reassessment order passed, which is still pending. Further, he stated that notices for recovery of demand have been issued and the Petitioner has been threatened with coercive steps. He submitted that if the present Writ Petition is allowed then, he shall withdraw the Appeal.

4. It is contended by Mr Jain that though several grounds have been raised in the petition, the petition can be disposed on the solitary ground of the notice under Section 148 being barred by limitation. It is contended by the Petitioner that the Notice issued under Section 148 for A.Y.2015-16 is dated 23rd April 2022. Since it is issued after 1 st April 2021, it is without jurisdiction and has to be withdrawn in light of the concession made by the Income Tax Department before the Hon'ble Supreme Court in the case of UOI v. Rajeev Bansal [2024] 167 taxmann.com 70. Further, reliance is placed on the order dated 2 nd April 2025 passed by the Hon'ble Supreme Court in case of Deepak Steel and Power Ltd. v. Central Board of Direct Taxes Page 2 of 7 DECEMBER 24, 2025 Rohit Ghuge (PA) ::: Uploaded on - 02/01/2026 ::: Downloaded on - 02/01/2026 21:42:29 ::: 14.os.WPL.41554.2025.doc [2025] 174 taxmann.com 144 and an order dated 4th April 2025 passed in the case of Asstt. CIT v. Nehal Ashit Shah [SLP (CIVIL) Diary No (s) 57209 of 2024]. Further, our attention is also drawn to the decision of this Court in Verjinia Foods Limited v. The Income Tax Officer, Ward-1(1), Kalyan [W.P. No.1428 of 2023, decided on 6-10-2025]. Once the Notice under Section 148 is bad in law, all the consequential orders/notices would also not survive, is the submission.

5. The learned counsel for the Respondent does not dispute the above position. However, he contends that since the Petitioner has availed of the alternate remedy by file an Appeal, this Petition should not be entertained, and be dismissed.

6. We have heard the learned counsel for the parties. It is not in dispute that the present petition relates to A.Y.2015-16. Further, it is also undisputed that the notice under Section 148 has been issued on 23 rd April 2022 which is at page 109 of the paper book. Once these are the facts, paragraphs 19 (e) and (f) of the judgment of the Hon'ble Supreme Court in the case of Rajeev Bansal (supra) become relevant. They read as under:- Page 3 of 7

DECEMBER 24, 2025 Rohit Ghuge (PA) ::: Uploaded on - 02/01/2026 ::: Downloaded on - 02/01/2026 21:42:29 :::

14.os.WPL.41554.2025.doc "19. Mr. N Venkataraman, learned Additional Solicitor General of India, made the following submissions on behalf of the Revenue:-

a. ...

e. The Finance Act 2021 substituted the old regime for reassessment with a new regime. The first proviso to Section 149 does not expressly bar the application of TOLA. Section 3 of TOLA applies to the entire Income-tax Act, including Sections 149 and 151 of the new regime. Once the first proviso to Section 149(1)(b) is read with TOLA, then all the notices issued between 1st April 2021 and 30th June 2021 pertaining to assessment years 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018 will be within the period of limitation as explained in the tabulation below:

Assessment Within 3 Expiry of Limitation reat Within six Years Expiry of Limitation year years with TOLA for (2) read with TOLA for (4) (1) (2) (3) (4) (5) 2013-2014 31-3-2017 TOLA not applicable 31-3-2020 30-6-2021 2014-2015 31-3-2018 TOLA not applicable 31-3-2021 30-6-2021 2015-2016 31-3-2019 TOLA not applicable 31-3-2022 TOLA not applicable 2016-2017 31-3-2020 30-6-2021 31-3-2023 TOLA not applicable

2017-2018 31-3-2021 30-6-2021 31-3-2024 TOLA not applicable

f. The Revenue concedes that for the assessment year 2015-16, all notices issued on or after 1st April 2021 will have to be dropped as they will not fall for completion during the period prescribed under TOLA;"

(emphasis supplied)

7. From the above it is clear, that the Department has conceded before the Hon'ble Supreme Court that all the notices issued under Section 148 after 1st April 2021 for A.Y.2015-16 have to be dropped. In the present case, the Notice under Section 148 is dated 23 rd April 2022 and therefore, has to be dropped. Page 4 of 7

8. The decision in Rajeev Bansal (supra) has been subsequently followed by the Hon'ble Supreme Court in Deepak Steel and Power Ltd. (supra). Paragraphs 4 and 5 of the said order is reproduced hereunder:-

4. The learned counsel appearing for the revenue with his usual fairness invited the attention of this Court to a three judge bench decision of this Court in Union of India and Ors. v. Rajeev Bansal, reported in 2024 SCC OnLine SC 2693, more particularly, paragraph 19(1) which reads thus:-

"19. (f) The Revenue concedes that for the Assessment Year 2015-2016, all notices issued on or after April 1, 2021 will have to be dropped as they will not fall for completion during the period prescribed under the taxation and other Laws (Relaxation and Amendment of certain Provisions) Act, 2020."

5. As the revenue made a concession in the aforesaid decision that is for the assessment year 2015-2016, all notices issued on or after 1st April, 2021 will have to be dropped as they would not fall for completion during the period prescribed under the taxation and other laws (Relaxation and Amendment of certain Provisions Act, 2020). Nothing further is required to be adjudicated in this matter as the notices so far as the present litigation is concerned is dated 25.6.2021. (emphasis supplied)

9. Similarly, even in the matter of Nehal Ashit Shah (supra), the Hon'ble Supreme Court, relying upon paragraphs 19 (e) and (f) of the decision in case of Rajeev Bansal (supra), dismissed the SLP filed by the Revenue. Paragraph 5 of the said order is reproduced hereunder:- Page 5 of 7

14.os.WPL.41554.2025.doc "5. In this regard, reference could also be made to paragraph 19(e) and

(f) n the case of Union of India v. Rajeev Bansal, Civil Appeal No. 8629 of 2024 on 03.10.2024 (2024 SCC ONLINE 754) under which the Learned Additional Solicitor General for India has made a concession insofar as the Assessment Year 2015-16 is concerned."

10. Lastly, this very Bench on 6th October 2025, in the matter of Verjinia Foods Limited (supra), has allowed the petition filed by the Petitioner therein by noting that since, the notice under Section 148 was issued after 1st April 2021, the same was required to be set aside in light of the concession made by the Revenue before the Hon'ble Supreme Court in the case of Rajeev Bansal (supra).

11. In light of the above discussion, we find merit in the submissions as canvassed by the Petitioner. The Revenue has categorically made a concession that for A.Y.2015-16 they would drop all notices issued under Section 148 after 1st April 2021. Once this is the position, it is appropriate that the notice under Section 148 dated 23 rd April 2022, and the consequential assessment order, notice of demand, penalty notices/orders as well as the recovery notices be quashed and set aside. It is accordingly so ordered.

12. In light of this order, Mr. Jain, the learned counsel appearing on behalf of the Petitioner, undertakes to withdraw the Appeal filed by him before the CIT (Appeals) within a period of 2 weeks from the date of Page 6 of 7 DECEMBER 24, 2025 Rohit Ghuge (PA) ::: Uploaded on - 02/01/2026 ::: Downloaded on - 02/01/2026 21:42:29 ::: 14.os.WPL.41554.2025.doc uploading of this order. The said undertaking is accepted. If for any reason, the present order is challenged by the Revenue and is set aside, then the Appeal filed by the Petitioner before the CIT (Appeals) will automatically stand revived and the same shall be prosecuted on its own merits and in accordance with law.

13. Rule is made absolute in the above terms and the Writ Petition is also disposed of in terms thereof. No orders as to cost. We also make it clear that we have not expressed any opinion on the other grounds raised in the petition.

14. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order. [AMIT S. JAMSANDEKAR , J.] [B. P. COLABAWALLA, J.] Page 7 of 7 DECEMBER 24, 2025 Rohit Ghuge (PA) ::: Uploaded on - 02/01/2026 ::: Downloaded on - 02/01/2026 21:42:29 :::