

## 90,000 I-T notices made valid as SC backs taxman

Several assesses had filed petitions in various high courts, which led to an SC ruling in May 2022.

In that ruling, the SC held that although these reassessment notices were technically invalid under the old regime, they could be treated as show-cause notices under the new regime and be considered valid if processed accordingly. This decision impacted approximately 9,000 petitioners who had challenged the notices.

The Finance Act, 2021, which came into effect on April 1, 2021, brought significant changes to the reassessment procedure under the I-T Act. These changes included — shortened time limits for reassessment notices from 4 to 3 years in regular cases; increased threshold for cases involving escaped income, raising the bar from ₹1 lakh to ₹50 lakh for reopening beyond 3 years; extended time limits for serious cases from 6 to 10 years.

The Finance Act, 2024, revised the procedure for assessments whereby a case could be reopened beyond three years from the end of the assessment year only if the escaped income is ₹50 lakh or more, subject to a maximum period of five years. In search cases, a time limit of six years before the year of search has been introduced as against the earlier limit of ten years, with a view to reducing tax-uncertainty and disputes.

"The present (Thursday) ruling is the fallout effect of the landmark decision of the Supreme Court in the case of Ashish Agarwal," said Nikhil Tiwari, tax partner, EY India.

The decision sets aside previous HC rulings that had quashed these notices, offering relief to the tax authorities. "This judgment defines the extent of executive powers to modify statutory deadlines during extraordinary circumstances like the pandemic," said Rakesh Nangia, chairman, Nangia Andersen India.

# 90,000 I-T notices made valid as SC backs taxman

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New Delhi, October 3

**IN A SETBACK** to taxpayers, the Supreme Court on Thursday upheld the validity of around 90,000 past income tax reassessment notices slapped on individuals and businesses, including those issued up to 11 years ago.

The revenue department sent these notices to the assesses, between April 1, 2021 and June 30, 2021; they pertained to assessment years (AYs) 2013-14 to 2017-18 (FY13-FY17).

The court ruling, favouring the department, means that an old regime, where the taxman had an extended facility to open up past cases for reassessment, would apply for the cases involved in the petition. These notices, sent during the Covid period, could now be pursued by the department. A new regime, introduced in FY22, had restricted the time limit for starting reassessment in regular cases to 3 years, and had it applied to these cases, the notices would have become infructuous.

The apex court clarified that the

## BLOW TO TAXPAYERS

■ Apex court has allowed taxman to persist with Covid period notices under old regime

■ Tax dept had sent these reassessment notices during April 1-June 30, 2021

■ The notices pertained to assessment years 2013-14 to 2017-18

■ New regime introduced in FY22 had restricted time limit for starting reassessment in regular cases to 3 years



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amended provisions of the Income Tax Act — effective from April 1, 2021 — must be read alongside Taxation and Other Laws (Relaxation & Amendment of Certain

Provisions) Act (TOLA).

During the pandemic period, under TOLA, various time limits for compliance under the I-T Act were extended, in order to provide relief to taxpayers in view of the pandemic's disruptions. In May 2022, taxpayers had faced a setback when the SC upheld all reassessment notices issued post-March 31, 2021 (Ashish Agarwal case).

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# SC relief to I-T Dept comes as bad news for 90,000 assesseees

**Shishir Sinha**  
New Delhi

In a big win for the Income Tax Department, the Supreme Court on Thursday ruled that the Income Tax Act has to be read along with the substituted provisions which came into effect from April 1, 2021. This will impact 90,000 assesseees who have received reassessment notices.

The three-judge Bench, comprising Chief Justice DY Chandrachud and Justices JB Pardiwala and Manoj Mishra, addressed whether the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA) — which was issued as an ordinance during the Covid-19 lockdown to provide relief to taxpayers — applies to reassessment notices issued after April 1, 2021. Another issue before the court was the validity of reassessment notices issued under Section 148 of the new regime between July and September 2022.

The Court concluded that, “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.”

## NEW FRAMEWORK

Under this reassessment framework, the tax department can look back up to 11 years for cases involving tax evasion over ₹50 lakh and four years for amounts under that threshold. Previously, the department had a six-year look-back period for undisclosed income exceeding ₹1 lakh, provided there was evidence of concealment. The overlap of the old and new laws occurred due to the

extension of the old provisions during the Covid lockdown, creating confusion during the transition period.

Taxpayers contested the notices issued under the old law in various high courts, arguing that statute of limitation had expired and that the department no longer had the authority to issue reopening notices after April 1, 2021. They emphasised that the old law was extended via a circular, while the new law emerged from legislative action, giving it greater validity. The new law also mandates that the department issue preliminary notice before serving the final reassessment notice, a procedure some argued was violated by the reassessment notices issued under the old law.

## THE VERDICT

After reviewing all the arguments, the bench said that the directions in *Ashish Agarwal case* will extend to all 90,000 reassessment notices issued under the old regime between April 1, 2021 and June 30, 2021. It also said that the assessing officers were required to issue the reassessment notice under Section 148 of the new regime within the time limits specified by the Income Tax Act, read with TOLA. Any notices issued beyond this point are time-barred and liable to be set aside.

“The ruling sets aside previous High Court rulings that had quashed these notices, offering relief to the tax authorities,” said Rakesh Nangia, Chairman at Nangia Andersen India.

Amit Maheshwari, Tax Partner at AKM Global, added said: “Taxpayers need to quickly swing in action to comply with the requirement of notices issued in their cases and complete the proceedings.”