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

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Date of Decision: 29.04.2025+ **W.P.(C) 3152/2025, CM APPL. 14850/2025, CM APPL. 14851/2025 & CM APPL. 20774/2025**

SAROJ MEHNDI

.....Petitioner

Through: Mr. Pradeep Singh Rawat, Mr. Girish Chandra & Mr. Pankaj Pandey, Advocates.

versus

INCOME TAX OFFICER, WARD 49.1 & ANR.Respondents

Through: Mr. Shlok Chandra, Sr. Standing Counsel with Ms. Naincy Jain, Jr. SC, Ms. Madhavi Shukla, Jr. SC & Mr. Ujjwal Jain, Advocate.

CORAM:**HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MR. JUSTICE TEJAS KARIA****VIBHU BAKHRU, J. (Oral)**

1. The Petitioner [**Assessee**] has filed the present petition, *inter alia*, impugning a notice dated 11.07.2022 [**the impugned notice**] issued under Section 148 of the Income Tax Act, 1961 [**the Act**] for the Assessment Year [**AY**] 2014-15. It is the Assessee's case that the impugned notice has been issued beyond the prescribed period of limitation.

2. The initial notice under Section 148 of the Act for AY 2014-15 was



issued on 23.06.2021. This notice was unsustainable as it was issued in accordance with the statutory regime that existed prior to 31.03.2021. In the case of *Mon Mohan Kohli v. Assistant Commissioner of Income Tax & Anr.: Neutral Citation: 2021:DHC:4181-DB*, this court set aside notices issued after 31.03.2021 that did not follow the procedure prescribed under Section 148A of the Act. However, in *Union of India & Others. v. Ashish Agarwal: (2023) 1 SCC 617*, the Supreme Court directed that such notices be treated as notices issued under Section 148A(b) of the Act and further granted time to the Assessing Officer [AO] to supply the information and material on which such notices were premised.

3. In compliance with the directions issued by the Supreme Court in the case of *Union of India & Others. v. Ashish Agarwal (supra)*, the AO provided information and material to the Assessee on 26.05.2022. The Assessee was granted two weeks' time to file a reply to the said notice. However, the Assessee failed to file any reply to the notice dated 26.05.2022.

4. The AO passed an order under Section 148A(d) of the Act on 11.07.2022. According to the Assessee, this order was passed beyond the period of limitation.

5. In the present case, the period of six years from the end of the assessment year for issuing a notice under Section 148 of the Act expired on 31.03.2021. Therefore, in terms of Section 149 of the Act, no notice under Section 148 of the Act could be issued. However, this period was extended by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 [TOLA]. As a result, the time limit for issuing such a



notice was extended to 30.06.2021. The original notice under Section 148 of the Act was issued on 23.06.2021, which was seven days before the expiry of the extended period of limitation.

6. As noted above, the said notice was deemed to be a notice under Section 148A(b) of the Act by virtue of the decision of the Supreme Court in *Union of India & Ors. v. Ashish Agarwal (supra)*. The Supreme Court also granted further time to provide the material required to accompany such a notice. As explained by the Supreme Court in the case of *Union of India v. Rajeev Bansal: 2024 SCC OnLine SC 2693*, the period from the date of issuance of the notice till 04.05.2022, the date on which the Supreme Court rendered its decision in *Union of India & Ors. v. Ashish Agarwal (supra)*, was required to be excluded. Additionally, the time provided until the material required to accompany the notice under section 148A(b) of the Act, as well as the time available to the Assessee to respond to the said notice, was also required to be excluded by virtue of the Third Proviso to Section 149(1) of the Act, as applicable at the material time.

7. In the present case, the AO had seven days to issue the notice under Section 148 of the Act after receipt of the reply of the Assessee. The said period expired on 18.06.2022. However, the impugned notice was issued on 11.07.2022, which is beyond the prescribed period. Therefore, the notice issued was beyond the period of limitation.

8. Concededly, the said controversy is covered in favour of the Assessee by the decision of this court in *Ram Balram Buildhome Pvt. Ltd. v. Income Tax Officer and Anr.: Neutral Citation: 2025:DHC:547-DB*.



2025:DHC:3043-DB



9. The present petition is accordingly allowed and all proceedings initiated pursuant thereto are set aside. The pending application(s) are also disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 29, 2025/ 'A'

Click here to check corrigendum, if any