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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Reserved on : 15<sup>th</sup> May, 2026**Pronounced on : 29<sup>th</sup> May, 2026*

+ W.P.(C) 15337/2024, CM APPL. 64325/2024

SUNIL BHALLA

.....Petitioner

Through: Mr. Salil Aggarwal, Sr. Adv. with Mr.  
Madhur Aggarwal, Adv.

versus

DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 13 (1)

NEW DELHI AND ANR

.....Respondents

Through: Mr. Puneet Rai, SSC  
Mr. Siddhartha Sinha, SSC and Ms.  
Easha Gurung, JSC**CORAM:****HON'BLE MR. JUSTICE DINESH MEHTA****HON'BLE MR. JUSTICE VINOD KUMAR****J U D G M E N T****REPORTABLE****Per DINESH MEHTA, J.**

1. The present writ petition challenges the order passed under Section 148A(d) dated 16.04.2024 so also the consequential notice of even date issued under Section 148 of the Income Tax Act, 1961 (*hereinafter referred to as the 'Act of 1961'*) on the ground that the proceedings were initiated when they had become time-barred.

2. The common arguments were advanced by Mr. Salil Aggarwal,



learned senior counsel for the petitioner and Mr. Puneet Rai, learned senior standing counsel for the respondents, in *W.P.(C) 15305/2024* titled *Shailendra Nath Rai v. Assistant Commissioner of Income Tax Circle 60(1) New Delhi & Anr.*

3. The relevant dates of the present case are noted hereunder in tabular form:

| DATE       | PARTICULARS   |
|------------|---|
| 28.03.2024 | Notice u/s 148A(b) was issued by AO, giving time till 08.04.2024 to file the reply, the initial time so given went beyond 31.03.2024 i.e. beyond period of limitation (not a case of search). |
| 05.04.2024 | Request for adjournment.  |
| 15.04.2024 | The petitioner again sought adjournment.  |
| 16.04.2024 | The order came to be passed by the AO u/s 148A(d) of the Act.   |
| 16.04.2024 | Notice u/s 148 of the Act was issued by the AO.   |

4. In our order of even date passed in *Shailendra Nath Rai (supra)*, we have clarified the legal position, having due regard to fifth and sixth proviso to Section 149 of the Act of 1961.

5. It will not be out of place to reproduce the relevant part of said judgment :

*“19. If the facts of the present case are examined, it is clear that on 29.03.2024, the assessee was called upon to file his reply as provided in Section 148A(b) and (c) of the Act of 1961. On 08.04.2024 instead of filing reply, he sought an adjournment and on 12.04.2024, the petitioner sought another adjournment and it was only on 21.04.2024 that the petitioner filed reply, with a plea that the*



*proceedings have become time-barred.*

*20. We are firmly of the view that in the face of fifth and sixth proviso, which clearly provide that for the purpose of computing the period of limitation, the time or extended time allowed to the assessee as per show cause notice issued under clause (b) of Section 148A is required to be excluded. The period from 29.03.2024 to 21.04.2024 was thus in any event required to be excluded.*

*21. If argument of Mr. Aggarwal, learned senior counsel for the petitioners is to be accepted, then every notice under Section 148A(b) issued after 1<sup>st</sup> March would be invalid because time for reply may vary from 7 days to 30 days and in each case, the validity of notice under Section 148A(b) would be depending upon an uncertain event of time taken by the assessee in filing reply. Because fifth and sixth proviso requires time taken in filing the reply **by the assessee** (subject to maximum 30 days) **which has** to be excluded. Such interpretation would not only lead to uncertainty but would frustrate the very purpose of a provision which has been introduced to ensure observance of principles of natural justice.*

*22. A combined reading of fifth and sixth proviso to Section 149 suggests that the time between the date of notice under Section 148A(b) i.e. **29.03.2024** and the date on which the petitioner had filed reply i.e. **21.04.2024** (as given under fifth proviso) is to be excluded and then, from that date, a period of 7 days is to be taken as per sixth proviso for the purpose of determining the last date of limitation, by which the AO has to pass the order under Section 148A(d) and issue the notice under Section 148 of the Act of 1961.*

*23. Accordingly, having received reply on 21.04.2024, the AO had only 7 days at his disposal to pass order under Section 148A(d) of the Act of 1961 and to issue notice under Section 148 of the Act of 1961, whereas he has passed the order under Section 148A(d) of the Act of 1961 and issued notice under Section 148 of the Act of 1961 on 30.04.2024 – he has taken 9 days' time to issue notice under Section 148 of the Act of 1961.*

*24. The notice under Section 148 was required to be issued within maximum of 7 days from the date, when reply was filed i.e. 21.04.2024. The notice could therefore be issued by 28.04.2024, whereas the same came to be issued on 30.04.2024. The impugned notice dated 30.04.2024 is, thus, barred by limitation.*



*25. The writ petition is allowed. Order under Section 148A(d) and notice under Section 148 of the Act of 1961 both passed/issued on 30.04.2024 are, therefore, quashed, being issued beyond the limitation.”*

6. On the anvil of above principles, if the facts of the present case are tested, according to us, the proceedings are well within the period of limitation inasmuch as the notice under Section 148A(b) of the Act of 1961 was issued on 28.03.2024, in response whereof, the petitioner was allowed time to file reply on 05.04.2024. On 05.04.2024, the hearing was deferred to 15.04.2024. Again, the assessee prayed for an adjournment, which request was turned down by the Assessing Officer and the impugned order under Section 148A(d) of the Act of 1961 came to be passed on 16.04.2024.

7. In the instant case, since reply was not filed, we have to take 15.04.2024 as the deemed date of filing reply as the request of the petitioner for an adjournment was turned down.

8. Having turned down the request for adjournment (on 15.04.2024), the Assessing Officer passed an order under Section 148A(d) and issued a notice under Section 148 of the Act of 1961 on the very next date i.e. 16.04.2024.

9. Needless to observe that on 28.03.2024, the Assessing Officer had three days' time in his hands and even going by sixth proviso to Section 149 of the Act of 1961 from the date of filing reply, the Assessing Officer had seven days' time to pass an order. The last date for passing order under Section 148A(d) of the Act of 1961 and issuing notice under Section 148 was therefore 7 days from 15.04.2024, i.e. 22.04.2024. Since the order under Section 148A(d) and notice under Section 148 have admittedly been issued on 16.04.2024, the same are well within limitation.



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10. Instant writ petition, therefore, fails. Pending application stands disposed of.

**(DINESH MEHTA)  
JUDGE**

**(VINOD KUMAR)  
JUDGE**

**MAY 29, 2026/ck**