



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 3804 of 2022

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE BHARGAV D. KARIA

and

HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Approved for Reporting	Yes	No

SAUMIL AVINASH BAHETI

Versus

INCOME TAX OFFICER WARD 4(2)(3), AHMEDABAD

Appearance:

MR. HARDIK V VORA(7123) for the Petitioner(s) No. 1

MS MAITHILI D MEHTA, SENIOR STANDING COUNSEL for the
Respondent(s) No. 1

CORAM: HONOURABLE MR. JUSTICE BHARGAV D. KARIA
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

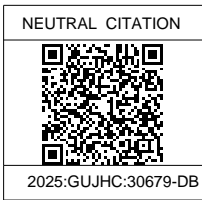
Date : 17/06/2025

ORAL JUDGMENT

(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

1 Heard learned advocate Mr.Hardik Vora for the petitioner and Ms.Maithili Mehta, learned Senior Standing Counsel appearing for the respondent.

2 Rule returnable forthwith. Learned Senior

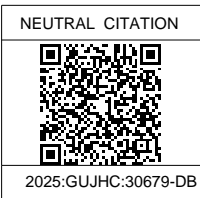


Standing Counsel Ms.Mehta, waives service of notice of rule on behalf of the respondent.

3 Having regard to the controversy arising in this petition in narrow compass and with consent of the learned advocates appearing for the respective parties, the matter is taken up for hearing.

4 The short question which arises in this petition is as to whether the notice dated 31.03.2021 issued under Sec.148 of the Income-Tax Act, 1961 (for short "the Act"), for the Assessment Year 2017-18 to reassess the income was actually issued on 31.03.2021 or not.

5 It is the case of the petitioner that the impugned notice was served through E-mail on 01.04.2021, and therefore, the notice dated 31.03.2021 would be an invalid notice.

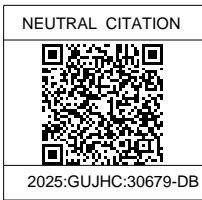


5.1 The contention of the petitioner is not controverted by the respondent in the affidavit-in-reply but on the contrary, it is confirmed as stated in para 7 as under:

"7 With reference to paragraph 3, the assessee has submitted that the impugned notice dated 31.03.2021 for A.Y 2017-18 for re-opening the assessment under section 148 of the Act is illegal, without jurisdiction and is required to be quashed.

*In this case, notice under section 148 of the Act for A.Y.2017-18 was issued to the assessee on 31/03/2021 having DIN and Notice No. ITBATBA/AST/S/148/2020-21/1032037041(1) and served through e-mail on 01.04.2021. Thereafter, in compliance to the judgement of Hon'ble Supreme Court dated 04.05.2022 in the Civil Appeal No.3005/2002 in case of **Union of India and others vs. Shri Ashish Agarwal and others** and CBDT Instruction No. 01/2022 dated 11.05.2022 issued vide F.No.279/Misc./M-51/2022-ITJ, the above mentioned notice issued under Section 148 of the Act dated 31/03/2021 would be treated as notice under Section 148A(b) of the Act and re-assessment proceedings initiated by issuing fresh notice u/s 148 of the Act after following due procedure for A.Y.2017-18."*

6 On a specific query raised by the Court,



learned Senior Standing Counsel Ms.Mehta appearing for the respondent submitted that no notice under Sec.148A(b) of the Act was issued as per the directions of the Hon'ble Apex Court in the case of *Union of India and others vs. Shri Ashish Agarwal and others.*, reported in *444 ITR pg 1 SC*.

7 In view of the above fact, admittedly, the notice dated 31.03.2021 is a time barred notice and hence the same would be invalid and without jurisdiction and only on this ground, the impugned notice is hereby quashed and set aside. Rule is made absolute to the aforesaid extent with no orders as to costs.

(BHARGAV D. KARIA, J)

(PRANAV TRIVEDI, J)

BIMAL