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

% *Date of Decision : 10.07.2025*

+ W.P.(C) 6660/2024 and CM APPL. 27704/2024

SANJAY BANSAL .....Petitioner

Through: Dr Kapil Goel, Advocate.

versus

INCOME TAX OFFICER .....Respondent

Through: Mr Puneet Rai, SSC with Mr Gibran Naushad, Mr Rishabh Nangia and Mr Ashvini Kumar, JSCs.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**HON'BLE MR. JUSTICE TEJAS KARIA**

**VIBHU BAKHRU, J. (ORAL)**

1. The Petitioner has filed the present Petition impugning a notice dated 15.04.2024 issued under Section 148 of the Income Tax Act, 1961 [**the Act**] in respect of Assessment Year [**AY**] 2016-17. The impugned notice was issued pursuant to an order dated 15.04.2024 passed under Section 148A(d) of the Act. Undisputedly, the notice is time barred and the said issue is covered by the earlier decision of this Court in *Manju Somani v. Income Tax Officer Ward-70(1) & Ors: Neutral Citation: 2024:DHC:5411-DB*. It is also relevant to refer to the decision of the Supreme Court in *Union of India & Others v. Rajeev Bansal: 2024 SCC OnLine SC 2693* whereby the Supreme Court had observed as under:



“46. The ingredients of the proviso could be broken down for analysis as follows: (i) no notice under Section 148 of the new regime can be issued at any time for an assessment year beginning on or before 1 April 2021; (ii) if it is barred at the time when the notice is sought to be issued because of the “time limits specified under the provisions of” 149(1)(b) of the old regime. Thus, a notice could be issued under Section 148 of the new regime for assessment year 2021-2022 and before only if the time limit for issuance of such notice continued to exist under Section 149(1)(b) of the old regime.

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49. The first proviso to Section 149(1)(b) requires the determination of whether the time limit prescribed under Section 149(1)(b) of the old regime continues to exist for the assessment year 2021-2022 and before. Resultantly, a notice under Section 148 of the new regime cannot be issued if the period of six years from the end of the relevant assessment year has expired at the time of issuance of the notice. This also ensures that the new time limit of ten years prescribed under Section 149(1)(b) of the new regime applies prospectively. For example, for the assessment year 2012-2013, the ten year period would have expired on 31 March 2023, while the six year period expired on 31 March 2019. Without the proviso to Section 149(1)(b) of the new regime, the Revenue could have had the power to reopen assessments for the year 2012-2013 if the escaped assessment amounted to Rupees fifty lakhs or more. The proviso limits the retrospective operation of Section 149(1)(b) to protect the interests of the assesses.”

2. In terms of the first proviso to Section 149 of the Act, issuance of notice under Section 148 of the Act is proscribed if such a notice could not be issued under Section 148 of the Act for that period. Prior to the amendments introduced to Sections 147 to 151 of the Act, a notice under Section 148 of the Act could be issued for a maximum period of 6 (six)



years from the end of the relevant assessment year. Thus, the impugned notice in the present case is clearly barred by limitation.

3. However, it is contended on behalf of the Revenue that the impugned notice has been issued pursuant to the directions and findings of this Court in *Twilight Infrastructure Pvt. Ltd. v. Income Tax Officer Ward 25(3) Delhi & Ors.*: **Neutral Citation: 2024:DHC:259-DB**. and therefore, in terms of Section 153 of the Act, the impugned notice is valid. We find no merit in the said contention. The said controversy is squarely covered by the decision of this Court in *Abhinav Jindal v. Assistant Commissioner of Income Tax Circle 52 1* : **2025:DHC:339-DB** whereby this Court had held as under:

“9. In *Twilight Infrastructure Pvt. Ltd. v. Income Tax Officer Ward 25(3) Delhi & Ors.* (*supra*) this court allowed the petition filed by the petitioner being W.P.(C) No. 1006/2023 on 05.01.2024 and set aside the notice dated 26.07.2022.

10. It is apparent from the above that the notice issued under Section 148 of the Act in the earlier round was set aside on the ground that the AO had not followed the mandatory requirement of seeking an approval from the competent authority.

11. Clearly, the fact that the petitioner had succeeded in its challenge to the said notice cannot be a ground for exclusion of the period spent by the assessee in pursuing the said litigation. The time spent by the petitioner in pursuing the challenge can neither be excluded nor can be claimed as resulting in extension of the period of limitation.

12. The Revenue is required to take all necessary steps for initiation of the assessment proceedings within the period of limitation. This would obviously mean proper steps in accordance with law. The fact that the Revenue had not taken the steps in accordance with law cannot possibly be construed as a factor in



favour of the Revenue for extending the limitation as stipulated under Section 149 of the Act. Plainly, there was no court order impeding the Revenue from issuing a notice under Section 148 of the Act, in accordance with law.

13. In view of the above, we reject the contention that the period of limitation as stipulated under Section 149(1) of the Act stood extended by virtue of the proceedings initiated by the orders passed in W.P.(C) 1006/2023.”

4. The Petition is, accordingly, allowed and the impugned notice dated 15.04.2024 issued under Section 148 of the Act and the reassessment proceedings initiated pursuant to the said notice are set aside. Pending application shall also stand disposed of.

**VIBHU BAKHRU, J**

**TEJAS KARIA, J**

**JULY 10, 2025/tr**