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

\+ **W.P.(C) 9005/2024**

RAJENDER KUMAR .....Petitioner

Through: Mr. Dushyant Nayak, Mr. Nitin Kumar, Ms. Parul Kanwar, Mr. Rajiv Kumar and Mr. Jitendra Kumar, Advs.

versus

INCOME TAX DEPARTMENT AND ANR ....Respondents

Through: Mr. Puneet Rai, SSC with Mr. Ashwini Kumar, Mr. Rishabh Nangia, Mr. Nikhil Jain, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAVINDER DUDEJA

<u>O R D E R</u>

% 09.05.2025

1. This hearing has been done through hybrid mode.

<u>CM APPL.73379/2024 (for condonation of delay)</u>

2. For the reasons stated in the application, delay in filing the review petition is condoned. Application is disposed of.

<u>CM APPL.73380/2024 (for exemption)</u>

3. Allowed, subject to all just exceptions. Application is disposed of.

<u>REVIEW PET. 480/2024 in W.P.(C)-9005/2024</u>

4. This is a review petition challenging the order dated 5th July, 2024. The said order reads as under:

> *"1. This writ petition impugns the initiation of action under Section 148 of the Income Tax Act, 1961 ["**Act**"]. As is evident from the record, the order under Section 148A(d) came to be made way back in 13 April 2023. Bearing in mind the fact that the petitioner has participated in those reassessment proceedings, we find no justification to entertain this belated challenge by*

way of the present writ petition under Article 226 of the Constitution.
2. The writ petition fails and shall stand dismissed.
3. This order, however, shall be without prejudice to the rights and contentions of respective sides."

5. Ld. Counsel for the Review Applicant has raised three grounds. The first ground is that the Petitioner was not afforded a proper hearing. Secondly, the petition was dismissed on the ground that the challenge was belated. Thirdly, the issue of the pre-conditions for issuance of a notice under Section 148 of the Income Tax, 1961 is now pending in another Court in ***W.P.(C) 3072/2025***, which is listed on 10th July, 2025.

6. The Court has considered the matter.

7. Firstly, this Court does not appreciate the contention that the Counsel was not heard. The record of appearance shows that all the Counsels were present and had addressed arguments.

8. Secondly, insofar as the issue of non-satisfaction of pre-conditions under Section 148 of the Income Tax Act is concerned, since the said section is only about re-assessment, if any particular ground or pre-condition has not been satisfied by the Department, the same shall be available to the Assessee to be taken against the final order, which may be passed.

9. Hence, no ground for interference is made out. However, the order dated 5th July, 2024 is clarified as above.

10. The review petition is disposed of in these terms.

PRATHIBA M. SINGH, J.

RAVINDER DUDEJA, J.

MAY 9, 2025/*dk/msh*