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

\+ W.P.(C) 9184/2024

DHAN PRAKASH GUPTA .....Petitioner

Through: Ms. Mohini Priya, Adv.

Versus

INCOME TAX DEPARTMENT .....Respondent

Through: Mr. Sanjay Kumar, Adv.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

% **14.02.2025**

Review Petition No.81/2025

1. The Assessee has filed the present review petition seeking review of the order dated 20.11.2024, whereby the above-captioned petition was dismissed.

2. The Assessee seeks a review of the order dated 20.11.2024 on essentially two grounds. First, he states that after the decision was rendered, the Assessee came across the information, which suggested that a part of the aggregate amount, which is suspected to be the income of the Assessee that has escaped assessment, is also sought to be taxed from another entity, namely JVD Tours and Travels Pvt. Limited. Second, it is stated that the order dated 20.11.2024 proceeds on erroneous assumption that the entire amount of ₹9,43,36,231/- referred to by the Assessing Officer (AO) in the notice issued under Section 148A(b) of the Income Tax Act, 1961 (hereafter *the Act*), was in fact not the amount of cash deposited in the bank. However, this court proceeded on the basis that the sum of ₹9,43,36,231/- (₹8,79,42,231/- + ₹63,94,000/-) was deposited in cash.

3. We are not persuaded to accept that the order dated 20.11.2024 warrants to be reviewed. As noticed in the said order, the principal allegation in respect of which the AO had suspected that the income of the Assessee had

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escaped assessment was the large cash deposits in the bank account of the Assessee. This court had perused tabular statement as set out in the notice issued under Section 148A(b) of the Act and found that the Assessee in his response had neither disclosed the quantum of cash deposited during the previous year relevant to Assessment Year (AY) 2017-18 nor furnished a detailed explanation as to the deposits of large amount of cash. Paragraphs 9 and 10 of the order dated 20.11.2024 are set out below:

> "9. A plain reading of the impugned notice indicates that the JAO had information that large cash deposits were made in the petitioner's bank accounts. A tabular statement relating to the information regarding the cash deposits as set out in the impugned notice, is reproduced below:

Information Code	**Information Description**	**Source**	**Amount Description**	**Amount (₹)**
SFT-003	Cash withdrawals (including through bearer's cheque) in current account	STATE BANK OF INDIA	Aggregate gross amount received from person in cash	8965000
SFT-003 (D)	Cash deposits (including through bearer's cheque) in current account	VIJAYA BANK	Aggregate gross amount received from person in cash	10318062
SFT-006	Payments made by any person in respect of one or more credit cards issued to that person, in a financial year	SBI CARDS AND PAYMENT SERVICES PRIVATE LIMITED	Aggregate gross amount received from person in cash	5241312
SFT-006	Payments made by any person in respect of one or more credit cards issued to that person, in a financial year	KOTAK MAHINDRA BANK LIMITED	Aggregate gross amount received from person in cash	5921118
SFT-006	Payments made by any person in respect of one or more credit cards issued to that person, in a	THE HONGKONG & SHANGHAI BANKING CORPORATION LTD	Aggregate gross amount received from person in cash	1132729

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	financial year			
SFT-005	Payments made by any person in respect of one or more credit cards issued to that person, in a financial year	INDUSIND BANK LIMITED	Aggregate gross amount received from person- Aggregate gross amount paid to the person	2500000
SFT-003 (W)	Cash deposits (including through bearer's cheque) in current account	ICICI BANK LIMITED	Aggregate gross amount received from person in cash	240000
SFT-003 (D)	Cash deposits (including through bearer's cheque) in current account	ICICI BANK LIMITED	Aggregate gross amount received from person in cash	11730305
SFT-006	Payments made by any person in respect of one or more credit cards issued to that person, in a financial year	INDUSIND BANK LIMITED	Aggregate gross amount received from person in cash	12524385
FRM-15CB (P)	Certificate of accountant on foreign remittance (Form 15CB)	DHAN PRAKASH GUPTA	Amount payable (INR)	1037683
SFT-006	Payments made by any person in respect of one or more credit cards issued to that person, in a financial year	ICICI BANK LIMITED	Aggregate gross amount received from person in cash	6784989
EXC-002	Turnover from Services reported in service tax return	CBIC	Gross taxable amount	21242048
SFT-003 (D)	Cash deposits (including through bearer's cheque) in current account	STATE BANK OF INDIA	Aggregate gross amount received from person in cash	304600
TOTAL				**8,79,42,231**

10. In addition to the cash deposits aggregating ₹8,79,42,231/-, the

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JAO had also alleged that there was unexplained cash in the account (Axis Bank) amounting to ₹63,94,000/-. Thus, the total value of the transactions, which were suggestive of petitioner's income escaping assessment was quantified at ₹9,43,36,231/-. The petitioner had responded to the impugned notice raising several issues. However, we do not find that the said response contains any information either as to the quantum of cash deposited during the previous year relevant to the AY 2017-18. There was also no explanation as to why large amounts were received in cash."

4. The petitioner contends that some of the payments as mentioned in the aforesaid table have been erroneously reflected as receipts in cash. A typographical error has crept in the tabular statement reproduced in paragraph 9 of the said order. The same is rectified to read as under: -

"9. A plain reading of the impugned notice indicates that the JAO had information that large cash deposits were made in the petitioner's bank accounts. A tabular statement relating to the information regarding the cash deposits as set out in the impugned notice, is reproduced below:

Information Code	**Information Description**	**Source**	**Amount Description**	**Amount (Rs.)**
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SFT-006	Payments made by any person in respect of one or more credit cards issued to that person, in a financial year	SBI CARDS AND PAYMENT SERVICES PRIVATE LIMITED	Aggregate gross amount received from person	5241312
SFT-006	Payments made by any person in respect of one or more credit cards issued to that person, in a	KOTAK MAHINDRA BANK LIMITED	Aggregate gross amount received from person	5921118

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	financial year			
SFT-006	Payments made by any person in respect of one or more credit cards issued to that person, in a financial year	THE HONGKONG & SHANGHAI BANKING CORPORATION LTD	Aggregate gross amount received from person	1132729
SFT-005	Time deposits (other than a time deposit made through renewal of another time deposit)	INDUSIND BANK LIMITED	Aggregate gross amount received from person - Aggregate gross amount paid to the person	2500000
SFT-003 (W)	Cash withdrawls (including through bearer's cheque) in current account	ICICI BANK LIMITED	Aggregate gross amount received from person in cash	240000
SFT-003 (D)	Cash deposits (including through bearer's cheque) in current account	ICICI BANK LIMITED	Aggregate gross amount received from person in cash	11730305
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EXC-002	Turnover from services reported in service tax return	CBIC	Gross taxable amount	21242048
SFT-003 (D)	Cash deposits (including through bearer's cheque) in	STATE BANK OF INDIA	Aggregate gross amount received from person in cash	304600

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	current account			
TOTAL				8,79,42,231

> 10. In addition to the deposits aggregating ₹8,79,42,231/-, the JAO had also alleged that there was unexplained cash in the account (Axis Bank) amounting to ₹63,94,000/-. Thus, the total value of the transactions, which were suggestive of petitioner's income escaping assessment was quantified at ₹9,43,36,231/-. The petitioner had responded to the impugned notice raising several issues. However, we do not find that the said response contains any information either as to the quantum of cash deposited during the previous year relevant to the AY 2017-18. There was also no explanation as to why large amounts were received in cash."

5. Having noted the above, we are of the view that the said errors are not material. It is not necessary for this court to examine whether the total amount of alleged cash deposit is incorrect on account of the same including amounts that were not deposited by cheques or received through banking channels. Suffice it is to state that the allegation that large amount of cash was deposited in the Assessee's bank account during FY 2016-17, is not effectively traversed. The Assessee had also not provided any detailed explanation as to the quantum of cash; the source of such cash; and why the amount was received in cash instead through banking channels.

6. The Assessee's contention that deposit of certain cash amount is also attributed to another assessee, namely JVD Tours and Travels Pvt. Ltd. is not required to be examined in these proceedings. The said issue was neither mentioned in response to the notice nor was urged before this court.

7. The notice under Section 148A(b) of the Act which contains information to the effect that there were large cash deposits in the Assessee's bank accounts was issued only to enable the Assessee to explain the same. In the present case, we are unable to fault the decision of the AO that "it is a fit case for issuance of a notice under Section 148 of the Act for want of necessary explanation". As stated above, we also clarify that the issue as to

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the exact quantum of cash deposited in the bank account of the Assessee as well as the Assessee's explanation regarding the same is required to be examined in detail during the assessment proceedings. We also consider it apposite to clarify that the said assessment is required to be made uninfluenced by the allegations made in the notice under Section 148A(b) of the Act or assessee's response to the same. The procedure under Section 148A of the Act is confined to examining whether a notice under Section 148 of the Act is required to be issued and nothing more.

8. Accordingly, no ground for review is made out, the same is accordingly dismissed with the aforesaid observations.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

FEBRUARY 14, 2025
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