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

\+ W.P.(C) 10119/2024

KULDIP SINGH GULATI .....Petitioner

Through: Mr. Shantanu Jain, Mr. Gautam Jain & Mr. Manish Yadav, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 25(1), DELHI .....Respondent

Through: Mr. Sunil Agarwal, SSC with Mr. Shivansh B. Pandya, Mr. Viplav Acharya JSCs & Mr. Utkarh Tiwari, Adv.

**CORAM:**
**HON'BLE MR. JUSTICE YASHWANT VARMA**
**HON'BLE MR. JUSTICE RAVINDER DUDEJA**

**ORDER**

**%** **24.07.2024**

**CM APPL. 41424/2024 (Exemption)**

Allowed, subject to all just exceptions.

This application stands disposed of.

**W.P.(C) 10119/2024 & CM APPL. 41423/2024 (stay)**

1. This writ petition assails the validity of initiation of action under Section 148 of the Income Tax Act, 1961 ["**Act**"] and represents the second round of litigation, with the earlier reassessment action having been annulled in light of the judgment rendered in **Twylight Infrastructure (P) Ltd. v. CIT** [2024 SCC OnLine Del 330].

2. We had while dealing with the jurisdiction and authority of the

respondent to reopen Assessment Year 2016-17 rendered a detailed judgment in **Manju Somani vs, Income Tax Officer, Ward-70(1) & Ors.** [2024:DHC:5411-DB], where we had observed as follows:

> "**12.** As is manifest from the above, the Proviso to Section 149 clearly bids us to go back in point of time and examine whether a proposed reassessment pertaining to a period prior to 01 April 2021 would sustain based on the time frames as they existed prior to the promulgation of Finance Act, 2021. The Proviso embodies a negative command restraining the respondents from issuing a notice under Section 148 in respect of an AY prior to 01 April 2021, if the period within which such a notice could have been issued in accordance with the provisions as they existed prior thereto had elapsed. This is manifest from the provision using the expression "no notice under Section 148 shall be issued" if the time limit specified in the relevant provisions "…..as they stood immediately prior to the commencement of the Finance Act, 2021" had expired. A reassessment which is sought to be commenced post 01 April 2021 would thus have to abide by the time limits prescribed by Sections 149 (1)(b), 153A or 153B as may be applicable.
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> **13.** Undisputedly, Section 149(1)(b) as it stood prior to the introduction of the amendments by way of Finance Act, 2021 prescribed that no notice under Section 148 shall be issued if four years "but not more than six years" have elapsed from the end of the relevant assessment year. Thus the period of six years stood erected as the terminal point which when crossed would have rendered the initiation of reassessment impermissible in law.
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> **14.** Viewed in light of the above, the impugned notice when tested on the anvil of the pre-amendment Section 149(1)(b) in order to be sustained would have to meet the prescription of six years. Undisputedly that period in respect of AY 2016-17 came to an end on 31 March 2023. We thus find ourselves unable to sustain the impugned action of reassessment and which was commenced pursuant to the notice dated 29 April 2024.
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> **15.** It would be important to note that the respondents also do not attempt to sustain the initiation of action on any other statutory provision and which could be read as extending the time limit that applied. We also find ourselves unable to read Twylight Infrastructure as empowering them to reopen assessments contrary to the negative covenant which forms part of Section 149 of the Act."

3. Following the aforesaid decision, we allow the instant writ

petition and quash the impugned notice dated 16 April 2024 referrable to Section 148 of the Act.

**YASHWANT VARMA, J.**

**RAVINDER DUDEJA, J.**

**JULY 24, 2024**/kk