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

\+ W.P.(C) 13726/2024, CM APPL. 57463/2024 & CM APPL. 57465/2024

TRANSTEK INFOWAYS PRIVATE LIMITED .....Petitioner

Through: Mr. Gagan Kumar, Ms. Puja Jakhar, Ms. Priyanka and Mr. Gagandeep R.M., Advocates (through VC).

versus

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

Through: Mr. Anant Mann, JSC for Mr. Ruchir Batra, Sr. Standing Counsel.

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **16.12.2024**

1. The petitioner has filed the present petition impugning a notice dated 31.03.2024 issued under Section 148A(b) of the Income Tax Act, 1961 (hereafter *the Act)* as well as a notice dated 25.04.2024 issued under Section 148 of the Act. The petitioner also impugns an order dated 25.04.2024 passed under Section 148A(d) of the Act.

2. The petition was listed on 30.09.2024 and the order passed on the said date indicates that petitioner had pressed the petition on two grounds – one that the impugned notice under Section 148 of the Act was issued beyond the period of limitation as prescribed under Section 149(1) of the Act for issuing such notices; and second that the Assessing Officer (JAO) did not have the jurisdiction to initiate the said proceedings. This Court had in the

aforesaid context passed the following order:

> *"3. The petitioner has filed the present petition, inter alia, impugning the Show Cause Notice dated 31.03.2024 (hereafter the impugned Notice) issued under Section 148A(b) of the Income Tax Act, 1961 (hereafter the Act); the order dated 25.04.2024 passed under Section 148A(d) of the Act; and the notice dated 25.04.2024 (hereafter the notice) issued under Section 148 of the Act.*
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> *4. The petitioner's challenge is premised on two counts. First, the impugned Notice is issued by the Jurisdictional Assessing Officer (JAO) which, according to the learned counsel for the petitioner, lacks the jurisdiction to issue the impugned Notice. This challenge is premised on the basis of the Notification dated 2 8.03.2022 issued by the Central Board of Direct Taxes (CBDT). Second, that the impugned Notice has been issued without sanction of the competent authority.*
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> *5. In so far as the first ground of challenge is concerned, this Court is informed that the batch of the matters involving a similar challenge is now listed on 16.12.2024. Accordingly, the present petition is required to be taken up along with the said batch.*
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> *6. In so far as the second ground of challenge is concerned, we find the same as unmerited.*
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> *7. In the present case, the impugned Notice was issued on the last day of the period of limitation of three years from the end of relevant assessment year 2020-21. The petitioner was called upon to file its reply by 11.04.2024, which was subsequently extended till 22.04.2024 at the request of the petitioner.*
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> *8. Thus, the period between 31.03.2024 to 22.04.2024 is required to be excluded by virtue of the fifth proviso to Section 149(1) of the Act. By virtue of the sixth proviso to Section 149(1) of the Act, if the period of limitation remaining after excluding the time provided for filing a reply, is less than seven days, then the limitation is extended by a period of seven days.*

> *9. In the present case, the order dated 25.04.2024 issued under Section 148A(d) and the notice were within the period of seven days from 22.04.2024. Thus, the order and the notice are within the period of limitation as prescribed. The question as to which authority was competent to grant the sanction is also required to be reckoned bearing the aforesaid in mind.*
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> *10. In the present case, the Principal Commissioner of the Income Tax has accorded the sanction to issue the impugned Notice. Accordingly, the provisions of Section 149 of the Act have been complied with.*
>
> *11. The petitioner's challenge on aforesaid ground is, unmerited and accordingly, rejected.*
>
> *12. List on 16.12.2024 along with the batch of matters involving the question as to the jurisdiction of the JAO to initiate reassessment proceedings after 28.03.2022.*
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> *13. In the meanwhile, the reassessment proceedings may be continued and if any order is to be passed, the same would not be given effect to till the next date of hearing."*

2. In view of the above, the only issue that is required to be considered is whether the Assessing Officer has the jurisdiction to initiate the proceedings under Section 148A/148 of the Act. Concededly, the said issue is covered against the petitioner by a decision of this Court in ***T.K.S. Builders Pvt. Ltd V. Income Tax Officer Ward 25(3);*** Neutral Citation No. ***2024:DHC:8330-DB***.

3. In view of the above, the present petition is dismissed.

4. Pending applications are also disposed of.

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

DECEMBER 16, 2024/*kct*

Click here to check corrigendum, if any