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

\+ W.P.(C) 39/2023

NATIONALIST CONGRESS PARTY .....Petitioner

Through: Mr. Ved Jain, Mr. Nischay Kantoor & Ms. Sonia Dodeja, Advs.

Versus

DEPUTY COMMISSIONER OF INCOME-TAX (EXEMPTION), CIRCLE 1 (1), DELHI & ORS. .....Respondents

Through: Mr. Indruj Singh Rai, Mr. Sanjeev Menon, Mr. Rahul Singh & Mr. Gaurav Kumar, Advs.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

O R D E R

% 28.04.2025

1. The petitioner [**Assessee**] has filed the present petition, *inter alia*, impugning a notice dated 30.08.2022 [**the impugned notice**] issued under Section 148 of the Income Tax Act, 1961 [**the Act**] in respect of the assessment year [**AY**] 2015-16. The Assessee is, essentially, aggrieved by the initiation of the reassessment proceedings for AY 2015-16, which were commenced by issuance of the notice dated 28.06.2021 under Section 148 of the Act.

2. The Assessee is a national political party and is registered with the Election Commission of India [**ECI**] by a certificate dated 10.01.2000. The Assessee filed its return of income on 29.02.2016, declaring a Nil income, after claiming exemption under Section 13A of the Act. A deficiency notice

was issued under Section 139(9) of the Act. In response to the notice of deficiency, the Assessee filed its return of income again on 24.05.2016, declaring Nil income after claiming exemption under Section 13A of the Act. Notably, the Assessee declared the entire income under the head 'Income from the other sources'.

3. The Assessee's return income was selected for limited scrutiny and a notice dated 28.07.2016 was issued under Section 143(2) of the Act. The Assessee responded to the said notice and also provided certain details to the AO.

4. The assessment proceedings culminated in an assessment order dated 09.10.2017 passed under Section 143(3) of the Act.

5. Thereafter, on 19.04.2021, 23.04.2021 and 09.06.2021, notices were issued by respondent no.1 to the Assessee, *inter alia*, seeking to verify whether the debit and credit transactions in two bank accounts maintained by the Assessee with the Bank of Maharashtra had been accounted for in the books of account. The Assessee replied to the aforesaid notices by the letters/emails dated 21.04.2021, 26.04.2021, 11.06.2021 and 18.06.2021, stating that the assessment had already been completed and that all requisite information and documents, as sought by the AO, had been duly furnished during the course of the assessment proceedings. It was submitted that the AO, after verifying the submissions and satisfying himself with the explanations offered, had allowed the claim of deduction under Section 13A of the Act. It was also clarified that the two bank accounts referred to in the notice issued under Section 133(6) of the Act were duly reflected in the books of accounts.

6. On 28.06.2021, the AO issued a notice under Section 148 of the Act to the Assessee for reopening the assessment for AY 2015-16. The said notice was unsustainable as it was issued in accordance with the statutory regime as existed prior to 31.03.2021. The said notice including other notices which were issued after 01.04.2021 but following the statutory regime regarding reopening of assessments that existed prior to 31.03.2021 was subject matter of challenge before this court and other High Courts. This court in the case of ***Mon Mohan Kohli v. Assistant Commissioner of Income and Anr.: Neutral Citation No.: 2021:DHC:4181-DB*** set aside such notices that were issued after 31.03.2021 without following the procedure as prescribed under Section 148A of the Act. Various High courts had also expressed similar views.

7. The Revenue filed appeals against the decisions rendered by various High Courts that had set aside the notices issued under Section 148 of the Act. In an appeal arising from a decision of the Allahabad High Court, the Supreme Court in the case of ***Union of India & Ors. v. Ashish Agarwal: (2023) 1 SCC 617***, issued directions under Article 142 of the Constitution of India for considering the said notices as the notices issued under Section 148A(b) of the Act and further granted time to the Assessing Officers to furnish information and the material on which such notices were premised.

8. In compliance with the directions issued by the Supreme Court in the case of ***Union of India & Ors. v. Ashish Agarwal*** (*supra*), the AO provided the information and material to the Assessee on 30.05.2022. The Assessee was granted two weeks' time to respond to the said notice. The Assessee responded to the notice dated 30.05.2022 by a letter dated 13.06.2022, stating that the two bank accounts referred to by respondent no. 1 were duly

recorded in its books of account and reflected in its audited financial statements for financial year [**FY**] 2014-15. The Assessee stated that it is a registered national political party. The Assessee claimed that it had participated in the General and Maharashtra State Assembly Elections during the relevant year, and the details, including sources of donations, were publicly available. The Assessee contended that the AO allowed a deduction of ₹67,32,50,826/- under Section 13A of the Act, representing income from donations, coupon money, fees, subscriptions, and interest, after due scrutiny and verification of all relevant material. The deposits totaling ₹37,47,81,848/- in the said accounts were sourced from donations and coupon receipts. Thus, the AO had no new material suggesting income escapement other than the information, which was already part of the assessment records.

9. Thereafter, the AO again provided the information to the Assessee 21.07.2022 following the directions given in the case of ***Union of India & Ors. v. Ashish Agarwal*** (*supra*) and granted seven (7) days time to the Assessee to respond to the same. The Assessee, by its letter dated 27.07.2022, reiterated the submissions made in its earlier reply dated 13.06.2022.

10. The AO passed an order under Section 148A(d) of the Act on 30.08.2022 and issued the impugned notice dated 30.08.2022 under Section 148 of the Act. The Assessee contends that the proceedings initiated pursuant to the impugned notice dated 30.08.2022 are required to be set aside in view of the concession made by the Revenue before the Supreme Court in ***Union of India and Ors. v. Rajeev Bansal: 2024 INSC 754***.

11. It is relevant to refer to paragraph 19(e) and 19(f) from the decision of the Supreme Court in ***Union of India and Ors. v. Rajeev Bansal*** (*supra*), which sets out the concession as made on behalf of the Revenue:

> "The Finance Act 2021 substituted the old regime for re-assessment with a new regime. The first proviso to Section 149 does not expressly bar the application of TOLA. Section 3 of TOLA applies to the entire Income-tax Act, including Sections 149 and 151 of the new regime. Once the first proviso to Section 149(1)(b) is read with TOLA, then all the notices issued between 1 April 2021 and 30 June 2021 pertaining to assessment years 2013-14, 2014-15, 2015-16, 2016-17, and 2017-18 will be within the period of limitation as explained in the tabulation below:

Assessment year	Within 3 Years	Expiry of Limitation read with TOLA for (2)	Within six Years	Expiry of Limitation read with TOLA for (4)
(1)	(2)	(3)	(4)	(5)
2013-2014	31-3-2017	TOLA not applicable	31-3-2020	30-6-2021
2014-2015	31-3-2018	TOLA not applicable	31-3-2021	30-6-2021
2015-2016	31-3-2019	TOLA not applicable	31-3-2022	TOLA not applicable
2016-17	31-3-2020	30-6-2021	31-3-2023	TOLA not applicable
2017-2018	31-3-2021	30-6-2021	31-3-2024	TOLA not applicable

> f. The Revenue concedes that for the assessment year 2015-16, all notices issued on or after 1 April 2021 will have to be dropped as they will not fall for completion during the period prescribed under TOLA;"

12. In view of the above concession, the impugned notice and the proceedings relating thereto are required to be set aside. We may also note the decision of the Supreme Court in ***Deepak Steel and Power Ltd. v. Central Board of Direct Taxes and Ors.: Civil Appeal No.5177/2025,***

decided on 02.04.2025. The said appeal arose from orders passed by the Hon'ble High Court of Orissa and Cuttack declining to entertain batch of petitions filed by the Assessees. The attention of the Supreme Court was drawn to the concession made on behalf of the Revenue in ***Union of India & Ors. v. Rajeev Bansal*** (*supra*) and noting the same, the Supreme Court allowed the appeals. The relevant extract of the said decision is set out below:

> "4. The learned counsel appearing for the revenue with his usual fairness invited the attention of this Court to a three judge bench decision of this Court in Union of India and Ors. v. Rajeev Bansal, reported in 2024 SCC OnLine SC 2693, more particularly, paragraph 19(f) which reads thus:-
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> > "19. (f) The Revenue concedes that for the assessment year 2015-2016, all notices issued on or after April 1, 2021 will have to be dropped as they will not fall for completion during the period prescribed under the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020."
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> 5. As the revenue made a concession in the aforesaid decision that is for the assessment year 2015-2016, all notices issued on or after 1st April, 2021 will have to be dropped as they would not fall for completion during the period prescribed under the taxation and other laws (Relaxation and Amendment of certain Provisions Act, 2020). Nothing further is required to be adjudicated in this matter as the notices so far as the present litigation is concerned is dated 25.6.2021.
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> 6. In view of the aforesaid, in such circumstances referred to above the original writ petition nos.2446 of 2023, 2543 of 2023 and 2544 of 2023 respectively filed before the High Court of Orissa at Cuttack stands allowed.

13. The notice dated 30.08.2022 issued under Section 148 of the Act stands quashed and set aside. Concededly, the controversy is covered in favour of the Assessee by the decision of this court in ***Makemytrip India***

Pvt. Ltd. v. Deputy Commissioner of Income Tax Circle 16 (1) Delhi & Anr.: Neutral Citation No.: 2025:DHC:1892-DB.

14. The petition is, accordingly, allowed and all proceedings initiated pursuant thereto are set aside.

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 28, 2025
RK/KS

Click here to check corrigendum, if any