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

\+ W.P.(C) 417/2023

FIRST INDIA ESTATES AND SERVICES PVT. LTD......Petitioner

Through: Ms. Kavita Jha, Sr. Adv. with Mr. Vaibhav Kulkarni, Mr. A. Bali & Mr. Himanshu Aggarwal, Advs.

Versus

INCOME TAX OFFICER & ANR. .....Respondents

Through: Mr. Debesh Panda, Ms. Zehra Khan, Mr. Vikramaditya, Ms. A. Shankar, Ms. Yashika & Ms. Delphina, Advs.

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

ORDER

% **24.04.2025**

1. The petitioner [**Assessee**] has filed the present petition, *inter alia*, impugning a notice dated 30.07.2022 [**the impugned notice**] issued under Section 148 of the Income Tax Act, 1961 [**the Act**] in respect of the Assessment Year [**AY**] 2014-15. It is the Assessee's case that the impugned notice has been issued beyond the prescribed period of limitation.

2. The initial notice under Section 148 of the Act for AY 2014-15 was issued on 21.06.2021. The said notice was unsustainable as it was issued in accordance with the statutory regime as existed prior to 31.03.2021. This court in the case of ***Mon Mohan Kohli v. Assistant Commissioner of Income Tax & Anr.: Neutral Citation No.: 2021:DHC:4181-DB*** had set aside such notices that were issued after 31.03.2021 without following the procedure as prescribed under Section 148A of the Act. However, the Supreme Court in the case of ***Union of India & Ors. v. Ashish Agarwal: (2023) 1 SCC 617***, issued directions for considering the said notices as the notices issued under Section 148A(b) of the Act and further granted time to the Assessing Officer

to supply the material on which such notices were premised.

3. In compliance with the directions issued by the Supreme Court in the case of ***Union of India & Ors. v. Ashish Agarwal*** *(supra)*, the Assessing Officer (AO) provided information and material to the Assessee on 23.05.2022. The Assessee was granted two weeks' time to respond to the said notice. The Assessee responded to the notice dated 23.05.2022 by a letter dated 20.06.2022.

4. The AO passed an order under Section 148A(d) of the Act on 30.07.2022. According to the Assessee, the same was beyond the period as stipulated.

5. In the present case, the period of six years from the end of the assessment year for issuing a notice under Section 148 of the Act expired on 31.03.2021. Thus, in terms of Section 149 of the Act, a notice under Section 148 of the Act could not be issued. However, the said period was extended by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 [**TOLA**]. Consequently, the time limit for issuing such a notice was extended to 30.06.2021. The original notice under Section 148 of the Act was issued on 21.06.2021, which was nine (9) days before the expiry of the period of limitation.

6. As noted above, the said notice was deemed to be a notice under Section 148A(b) of the Act, by virtue of the decision of the Supreme Court in ***Union of India & Ors. v. Ashish Agarwal*** (*supra*). The Supreme Court also granted further time to provide the material, which was required to accompany such notice. As explained by the Supreme Court in the case of ***Union of India v. Rajeev Bansal: 2024 SCC OnLine SC 2693***, the period from the date of the issuance of the notice till 04.05.2022, the date on which the Supreme Court had rendered the decision in ***Union of India & Ors. v.***

Ashish Agarwal (*supra*) is required to be excluded. Additionally, the time provided till the date of providing the material, which should have accompanied a notice under Section 148A(b) of the Act, as well as the time available to the assessee to respond to the said notice was also required to be excluded by virtue of the Third Proviso to Section 149(1) of the Act, as applicable at the material time.

7. In the present case, the AO had nine (9) days to issue the notice under Section 148 of the Act after receipt of the reply of the Assessee. The said period expired on 29.06.2022. However, the impugned notice was issued on 30.07.2022, which is beyond the said period. Thus, the notice was beyond the period of limitation as prescribed under Section 149(1) of the Act.

8. Concededly, the said controversy is covered in favour of the Assessee by the decision of this court in ***Ram Balram Buildhome Pvt. Ltd. v. Income Tax Officer and Anr.: Neutral Citation No.: 2025:DHC:547-DB***.

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

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 24, 2025
'gsr'

Click here to check corrigendum, if any