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

\+ W.P.(C) 745/2025

SONAL CHAWLA .....Petitioner

Through: Ms. Ananya Kapoor, Mr. Tarun Chanana and Mr. Utkarsh Kumar Gupta, Advocates

versus

INCOME TAX OFFICER WARD 29(1) DELHI .....Respondent

Through: Mr. Anurag Ojha, SSC with Ms. Hemlata Rawat and Mr. V.K. Saksena, JSCs

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

O R D E R

% **21.01.2025**

CM APPL. 3725/2025

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 745/2025 CM APPL. 3724/2025

3. The petitioner has filed the present petition, *inter alia,* praying as under:

> "a) Issue a writ of and/or order and or directions in the nature of certiorari or any other appropriate writ, order, or direction quashing impugned notice(s) dated 08.08.2024 issued under Section 148A(b) of the Act and the impugned order dated 28.08.2024 passed under Section 148A(d) of the Act; and the impugned notice dated 28.08.2024 issued under Section 148 of the Act;

b) Issue a writ of and/or order and/or direction in the nature of Prohibition commanding Respondents to forebear from giving effect to and/or taking any step whatsoever pursuant to and/or in furtherance of the said purported notice under Section 148 of the Act and/or in any proceedings initiated thereunder for the AY 2018-19, and grant stay on the reassessment proceedings;

c) Issue any other Writ, order, or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

d) To dispense with from filing certified copies of annexures.

e) To allow the writ petition with cost in favor of the Petitioner and against the Respondents."

4. The petitioner impugns an order dated 28.08.2024 (hereafter *the impugned order*) passed under Section 148A(d) of the Income Tax Act, 1961 (hereafter *the Act*) and the notice issued under Section 148 of the Act (hereafter *the impugned notice*) for the assessment year (AY) 2018-19. The impugned order was issued pursuant to a show cause notice issued under Section 148A(b) of the Act calling upon the petitioner to respond to the information, which according to the Assessing Officer (AO), is suggestive of the petitioner's income escaping assessment for the relevant assessment year.

5. It was stated that the petitioner had taken a loan of ₹1,22,93,556/- during the financial year (FY) 2017-18 from M/s. BKR Capital Pvt. Ltd. (hereafter *the BKR*). According to the information available with the AO, the said loan was a fictitious loan, resulting in the petitioner's income escaping assessment.

6. On receipt of the notice under Section 148A(b) of the Act, the petitioner had sought material referred to in the said notice. The petitioner

claims that the said information was necessary in order to respond to the notice.

7. Thereafter, the petitioner submitted a detailed response dated 23.08.2024 to the notice under Section 148A(b) of the Act. However, the petitioner states that the said reply could not be uploaded online on account of technical glitch. The petitioner has also produced a screenshot evidencing its attempt to furnish the said response online. However, the petitioner sent the reply by an e-mail and there is no dispute that the same was received by the concerned authority.

8. Notwithstanding, that the petitioner had furnished a response to the notice issued under Section 148A(b) of the Act, the AO proceeded to pass the impugned order without considering the said reply.

9. The learned counsel appearing for the Revenue states that the same may be for the reason that the response was not furnished online and was sent separately.

10. The petitioner also submits that in the previous two assessment years, that is, AY 2015-16 and 2017-18, similar allegations to the effect that the loans availed from BKR were fictitious as the said company was being used only for providing entries, were made. However, during the course of the assessment, the petitioner had produced material to establish the genuineness of the said transactions and the same were accepted by the AO.

11. Undisputedly, the AO is required to take a decision whether it is a fit case for issuance of notice under Section 148 of the Act on the basis of the record and the response filed by the petitioner. If the petitioner is correct in her submission that the similar transactions have been examined in earlier years, the AO would necessarily have to consider the same as well.

12. Since, in the present case, the AO has passed the impugned order without considering the petitioner's reply to the notice under Section 148A(b) of the Act, we consider it apposite to set aside the impugned order and remand the matter to the AO for consideration afresh. The AO shall take a decision on the basis of the record as well as the petitioner's response to the notice issued under Section 148A(b) of the Act.

13. The impugned notice under Section 148 of the Act is also set aside.

14. The petition is disposed of in the aforesaid terms. Pending application is also disposed of.

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

JANUARY 21, 2025

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Click here to check corrigendum, if any