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

\+ W.P.(C) 1669/2023

J KISHORE EXPORTS .....Petitioner

Through: Dr. Kapil Goel and Mr. Sandeep Goel, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 46 (1) DELHI .....Respondent

Through: Mr. Abhishek Maratha, SSC, Mr. Apoorv Agarwal, Mr. Parth Samwal, JSCs, Ms. Nupur Sharma, Mr. Gaurav Singh, Mr. Bhanukaran Singh Jodha, Ms. Divya Verma and Mr. Himanshu Gaur, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

O R D E R

% **27.02.2025**

1. The instant writ petition had been preferred assailing the reassessment action initiated by the respondent pertaining to Assessment Year [‘**AY**’] 2014-15. We take note of the principal challenge which now remains and pertains to the issue of surviving period.

2. The petitioner, in order to buttress its claim of the proceedings being time barred, has placed for our consideration the following chart:

WP (C) NO	1669//2023 (item 34)
NAME OF CASE	J KISHORE EXPORTS
ASST YEAR	2014-2015 (**REGULAR ASST FRAMED U/S 143(3) ON 21.12.2016: INSTANT REOPENING IS HIT BY PROVISO TO SEC 147 refer annexure P-2 pages 103 to 111**)
OLD LAW /INITIAL NOTICE U/S 148	07.04.2021 **Refer annexure P-3 pages 112 to 122**
148A(B)NOTICE	26.05.2022 **Refer annexure P-4 pages 123 to 128**
REPLY 148A(C)	31.05.2022 **Refer annexure P-5 pages 129 to 165**
148 NEW LAW NOTICE AND 148A(D) ORDER	29.07.2022 **Refer annexure P-6 pages 166 to 178 & 179-180**
STATUS	Covered by this hon'ble court decision in case of **Kanwaljeet Kaur v. Assistant Commissioner Of Income Tax** **Circle (34) 1 Delhi & Ors2025:DHC:656-DB (para 27 to para 29) &** **OTHER ISSUES TO BE EXAMIED AS RAISED IN WRIT PETITION (HIGHLIGHTED)** **Nature of transaction not clear**: There is no clarity whatso ever as to basic nature of alleged transaction /so called alleged accommodation entry and their basic components/ingredients which vitiates the formulation of belief being based on borrowed satisfaction , without independent application of mind as reasons recorded have to stand/fall on its own footing **Instant reopening is time barred/marred by/ vide first proviso to sec. 147 (unamended law)**: That impugned proceedings u/s 148 /148A are time barred vide first proviso to unamended sec 147 as in instant case admittedly already regular asst is completed u/s 143(3) vide order dated 21.12.2016 and instant reopening is made after end of four assessment years as in foundational reasons there is no valid /requisite finding /averment on jurisdictional aspect of the positive deficiency of disclosure by assessee in previous scrutiny asst u/s 143(3). *Even approval/sanction u/s 151 dated 31.03.2021 by PCIT 10 is equally deficient and lacking on legality being without application of mind* **NO BACK MATERIAL CONFRONTED** No back material/annexure as purportedly referred in so called statement of MrAshok Kr Gupta and foundational reasons etc , is ever purveyed /shared with petitioner herein which

	also vitiates the impugned reopening. **<u>NO CONISDERATION OF REPLY OF PETITIONER U/S 148A(c</u>**) That impugned proceedings u/s148 and 148A are ex facie invalid as in impugned order u/s 148A(d) there is no itemised consideration as explained by petitioner in its reply u/s 148A(c) ***<u>MECHANICAL SANCTION</u>*** *: even approval/sanction u/s 151 dated 31.03.2021 by PCIT 10 is equally deficient and lacking on legality being without application of mind*

3. The said question would have to be necessarily examined by the Jurisdictional Assessing Officer bearing in mind the judgment of the Supreme Court in **Union of India v. Rajeev Bansal** [2024 SCC OnLine SC 2693] as well as of this Court in **Ram Balram Buildhome Pvt. Ltd. v. Income Tax Officer & Anr.** [2025 SCC OnLine Del 481].

4. Dealing with identical issues, we had disposed of a batch of writ petitions by our judgment rendered in **Kanwaljeet Kaur vs. Commissioner of Income Tax** [2025 SCC OnLine Del 605] in the following terms:

> "**27.** We accordingly dispose of this batch of writ petitions by directing the concerned AOs to evaluate the individual SCNs' under Section 148 of the Act bearing in mind our judgments in *T.K.S. Builders, Abhinav Jindal and Naveen Kumar Gupta*. These decisions have conclusively settled issues pertaining to the accordal of sanction under Section 151 as well as the authority of the jurisdictional AO to commence and undertake reassessment. Those decisions also lay at rest the challenge which the writ petitioners had raised that an AO is bound to adhere to the procedure prescribed by Section 153C in cases emanating from a search.
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> **28.** A similar exercise would have to be undertaken to examine the issue of surviving period in respect of each individual noticee under Section 148 and which would necessarily be guided by the judgments of *Rajeev Bansal and Ram Balram*.
>
> **29.** The concerned AOs shall consequently pass a reasoned and speaking order dealing with the impact of the judgments referred to above upon the impugned reassessment notices and in the manner indicated in paras 27 and 28 of this order. That decision shall thus

> render a finding on whether the impugned reassessment notices would survive or be liable to be recalled. It shall be open to the writ petitioners to assail any adverse orders that may come to be passed pursuant to the above in accordance with law."

5. Consequently, and in light of the above, we dispose of the writ petition on terms identical to those provided in paragraphs 27 to 29 of *Kanwaljeet Kaur*.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.

FEBRUARY 27, 2025/RW