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

+ **W.P.(C) 2814/2023**

**APPEAL KIDS DREAM INTERNATIONAL PRIVATE
LIMITED**

.....Petitioner

Through: Mr. Ved Jain, Mr. Nischay
Kantoor and Ms. Soniya
Dodeja, Advs.

versus

**ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE
1(1), DELHI & ORS.**

....Respondents

Through: Mr. Debesh Panda, SSC, Mr.
Vikramaditya Singh and Ms.
Zehra Khan, JSCs and Ms.
Yashika Gupta, Adv.
Ms. Bakshi Vinita, SPC for R-
7/UOI.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

24.02.2025

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1. We had on 10 February 2025 taken note of the principal challenge which stands raised on the writ petition. The said order reads thus:-

“1. We take note the principal challenge which stands raised to the initiation of reassessment proceedings for Assessment Year 2017-18.

2. The challenge proceeds on the basis of the reassessment action having being accorded sanction by an authority clearly not recognised by Section 151 of Income Tax Act, 1961 [“Act”] as it stood at the relevant time. That provision as was applicable on the date of issuance of the Section 148A(d) notice read as follows:-

“151. Specified authority for the purposes of section 148



and section 148A shall be,—

(i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;

(ii) Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year.]”

3. The question which therefore arises is whether the Principal Commissioner of Income Tax-01 could be recognised to be the competent authority for sanction of action under Section 148 of the Act. We had while dealing with this aspect in **Abhinav Jindal HUF v. Commissioner of Income Tax and Ors** held as follows:-

“30. Tested on the principles which were enunciated in *Suman Jeet Agarwal v. ITO* [(2022) 449 ITR 517 (Delhi); 2022 SCC OnLine Del 3141.], the petitioners would appear to be correct in their submission of the date liable to be ascribed to the impugned notices and those being viewed as having been issued and dispatched after April 1, 2021. However, and in our considered opinion, the same would be of little relevance or significance when one bears in mind the indubitable fact that all the notices were approved by the Joint Commissioner of Income-tax and which was an authority recognised under the unamended section 151. The answer to the argument based on the provisions of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act would also largely remain unimpacted by our finding on this score as would become evident from the discussion which ensues.

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33. A plain reading of section 3 establishes that where the time limit for the completion or compliance of any action under a specified Act were to fall between March 20, 2020 to December 31, 2020, the period for completion and compliance would stand extended up to March 31, 2021 or such other date thereafter as may be specified by the Union Government by way of a notification. Undisputedly, the date of March 31, 2021 came to be extended thereafter up to April 30, 2021 and lastly up to June 30, 2021.



34. Concededly, the Finance Act, 2021 was enacted thereafter and came into effect from April 1, 2021. It is admitted by the respondents that the terminal point for initiation of reassessment for the assessment year 2015-2016 in ordinary circumstances would have been March 31, 2020 and that date clearly fell within the period spoken of in section 3 of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act. The period for issuance of notice for the assessment year 2015-2016, thus and principally speaking, stood extended up to June 30, 2021.

35. However, the key to answering the argument which was canvassed on behalf of the respondents is contained in section 3 itself and which purported to extend the period for completion of proceedings, passing of an order, issuance of a notice, intimation, notification, sanction or approval. The provision extended the time limit for such action, notwithstanding anything contained in the specified Act, initially up to March 31, 2021 and which date was extended subsequently to April 30, 2021 and lastly up to June 31, 2021.

36. Section 3 thus essentially extended the time period statutorily prescribed for initiation and compliance up to the dates notified by the Union Government from time to time. The extension of these timelines was intended to apply to all statutes which were included in the expression "specified Act" as defined in section 2(b) of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act.

37. The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act was thus concerned with overcoming the statutory closure and eclipse which would have otherwise descended upon the authority to act and take action under the specified statutes. It was essentially concerned with tiding over the insurmountable hurdles which arose due to the pandemic and the disruption that followed in its wake. The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, viewed in that light, was neither aimed at nor designed or intended to confer a new jurisdiction or authority upon an officer under a specified enactment. On a fundamental plane, it was a remedial measure aimed at overcoming a position of irretrievable and irreversible consequences which were likely to befall during the nationwide lockdown. It was principally aimed at enabling authorities to take and commence action within the



extended timelines that the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act introduced. However, it neither altered nor modified or amended the distribution of functions, the command structure or the distribution of powers under a specified Act. It was in that light that we had spoken of the carving or conferral of a new or altered jurisdiction.

38. It would therefore be wholly incorrect to read the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act as intending to amend the distribution of power or the categorisation envisaged and prescribed by section 151. The additional time that the said statute provided to an authority cannot possibly be construed as altering or modifying the hierarchy or the structure set up by section 151 of the Act. The issue of approval would still be liable to be answered based on whether the reassessment was commenced after or within a period of four years from the end of the relevant assessment year or as per the amended regime dependent upon whether action was being proposed within three years of the end of the relevant assessment year or thereafter. The bifurcation of those powers would continue unaltered and unaffected by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act.

39. The fallacy of the submission addressed by the respondents becomes even more evident when we weigh in consideration the fact that even if the reassessment action were initiated, as per the extended Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act timelines, and thus after the period of four years, section 151 incorporated adequate measures to deal with such a contingency and in unambiguous terms identified the authority which was to be moved for the purposes of sanction and approval. Section 151 distributed the powers of approval amongst a set of specified authorities based upon the lapse of time between the end of the relevant assessment year and the date when reassessment was proposed. Thus even if the reassessment was proposed to be initiated with the aid of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act after the expiry of four years from the end of the relevant assessment year, the authority statutorily empowered to confer approval would be the Principal Chief Commissioner/Chief Commissioner/Principal Commissioner/Commissioner. It would only be in a case where the reassessment was proposed to be initiated



before the expiry of four years from the end of the relevant assessment year that approval could have been accorded by the Joint Commissioner of Income-tax. Similar would be the position which would emerge if the actions were tested on the basis of the amended section 151 and which divides the power of sanction amongst two sets of authorities based on whether reassessment is commenced within three years or thereafter.

40. What we seek to emphasise is that the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act authorisation merely enables the competent authority to take action within the extended time period and irrespective of the closure which would have ordinarily come about by virtue of the provisions contained in the Act. It does not alter or amend the structure for approval and sanction which stands erected by virtue of section 151. The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act merely extended the period within which action could have been initiated and which would have otherwise and ordinarily been governed and regulated by sections 148 and 149 of the Act. If the contention of the respondents were to be accepted it would amount to us virtually ignoring the date when reassessment is proposed to be initiated and the same being indelibly tied to the end of the relevant assessment year. Once it is conceded that the notice came to be issued four or three years after the end of the relevant assessment year, the approval granted by the Joint Commissioner of Income-tax would not be compliant with the scheme of section 151. We thus find ourselves unable to sustain the grant of approval by the Joint Commissioner of Income-tax.

41. It is pertinent to note that the respondents had feebly sought to urge that the use of the expression “sanction” in section 3 of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act also merits due consideration and is liable to be read as supportive of the contentions that were addressed on their behalf. The argument is however clearly meritless when one bears in consideration the indisputable fact that the set of provisions with which we are concerned nowhere prescribe a timeframe within which sanction is liable to be accorded. “Sanction” when used in section 3 of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act caters to those contingencies where a specified Act may have prescribed a particular



time limit within which an action may be approved. That is clearly not the position which obtains here. We thus find ourselves unable to sustain the impugned action of reassessment. The impugned notices which rest on a sanction obtained from the Joint Commissioner of Income-tax would thus be liable to be quashed.

4. However, and since the right of the respondents to file a reply had been closed, let this matter be called again on 24.02.2025 by which time a written note may be placed for our consideration.”

2. As is evident from the above, the solitary question which was canvassed for our consideration was the issue of sanction as contemplated under Section 151 of the Income Tax Act, 1961 [“**Act**”].

3. The reassessment action for Assessment Year [“**AY**”] 2017-18 came to be commenced admittedly after a lapse of three years from the end of the relevant AY. It is in the aforesaid backdrop that Mr. Kantoor, learned counsel, had submitted that the said sanction accorded by the Principal Commissioner of Income Tax [“**PCIT**”] would not sustain.

4. We note that while dealing with the said question we had in **Abhinav Jindal HUF v. Commissioner of Income Tax and Ors** [2024 SCC OnLine Del 6585] duly enunciated the legal position which would obtain. We had ultimately in *Abhinav Jindal* held that the Taxation & Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 [“**TOLA**”] provisions would have no bearing on the identification of the competent authority under Section 151 for according sanction.

5. In view of the aforesaid, and since undisputedly in the facts of the present case the sanction was accorded only by the PCIT, the reassessment action would not sustain.

6. Accordingly and for all the aforesaid reasons, we allow the



instant writ petition and quash the impugned order referable to Section 148A(d) dated 30 July 2022 and notice under Section 148 of even date.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

FEBRUARY 24, 2025/nd