



2025:DHC:1111-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 2167/2025, CM APPL.Nos.10263/2025 & 10264/2025****ANUJ GHULIANI**

.....Petitioner

Through: **Mr. Nitin Kanwar, Advocate.**

versus

INCOME TAX OFFICER & ANR.

....Respondents

Through: **Mr. Puneet Rai, SSC with Mr. Ashvini Kumar, Advocate and Mr. Rishabh Nangia, JSC.*****Date of decision: 19th February, 2025*****CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGEMENT****TUSHAR RAO GEDELA, J : (ORAL)**

1. Present writ petition has been filed under Article 226/227 of the Constitution of India seeking quashing of the impugned notice dated 21.08.2024 issued under Section 148A (b) of the Income Tax Act (hereafter the 'Act'); the impugned order dated 31.08.2024 passed under Section 148A(d) of the Act; the impugned notice dated 31.08.2024 issued under Section 148 of the Act and other consequential proceedings. It also seeks quashing of the impugned approval of the specified authority dated 30.08.2024 issued under Section 151 of the Act.

2. It is the petitioner's case that the the respondent no.1 issued a show cause notice under Section 148A(b) of the Act for Assessment



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Year (AY) 2018-19 to the petitioner on 21.08.2024, *vide* which, the Assessing Officer (AO) has given only five (5) days' time to submit a response to the said notice, which is less than seven (7) days as specified under Section 148A(b) of the Act. It is stated that giving less time to the petitioner to file a reply not only violates provision of Section 148A(b) of the Act, but also violates principles of natural justice.

3. It is further stated that the petitioner approached the respondent personally to submit his reply under Section 148A(c) of the Act, on 27.08.2024 at Civic Centre, Minto Road, New Delhi – 110002, because there was no reply option available at the income tax portal after expiry of five (5) days. Upon instructions of the respondent officials, the petitioner duly submitted his reply on the email ID (delhi.ito44.6@incometax.gov.in) on the very same day.

4. Mr. Nitin Kanwar, learned counsel for the petitioner invites attention of this Court to the approval of specified authority dated 30.08.2024 wherein it is noted that the Assessee/petitioner has not filed any reply till date, however, it is the case of the petitioner that the reply was duly submitted on the email ID provided on 27.08.2204 itself. He further states that despite the reply having being filed within the statutory period of seven (7) days, the AO proceeded to pass an order dated 31.08.2024 under Section 148A(d) of the Act, without considering the reply so filed by the petitioner, holding that it is a fit case for issuing a notice under Section 148 of the Act for AY 2018-19. The AO also proceeded to issue a notice under Section 148 of the Act.

5. Learned counsel appearing for the Revenue fairly states that the petitioner may be given one more opportunity to respond to the notice



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dated 21.08.2024.

6. In view of the above, the impugned order dated 31.08.2024 passed under Section 148A(d) of the Act as well as the notice dated 31.08.2024 issued under Section 148 of the Act are set aside. The AO shall consider the reply already filed by the petitioner on 27.08.2024 and pass an appropriate order within a period of four weeks. In the event the AO considers that it is a fit case for issuing notice under Section 148 of the Act, necessary approval shall be obtained from the concerned Chief Commissioner of Income Tax as was the requirement at the material time.

7. The present writ petition, alongwith pending applications, is disposed of in the aforesaid terms.

TUSHAR RAO GEDELA, J

DEVENDRA KUMAR UPADHYAYA, CJ

FEBRUARY 19, 2025/rl