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

\+ W.P.(C) 3654/2023

DELHI AUTO AND GENERAL FINANCE PRIVATE LIMITED .....Petitioner

Through: Mr Sumit Lalchandani, Mr Salil Kapoor, Mr Tarun Chanana, Mr Shivam Yadav and Ms Ananya Kapoor, Advocates.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 7-1, DELHI & ANR. .....Respondents

Through: Mr Vipul Agrawal, senior standing counsel with Ms Sakashi Shairwal and Mr Akshat Singh, Advocates.

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

O R D E R

% **28.03.2025**

1. The petitioner has filed the present petition, *inter alia,* impugning a notice dated 29.07.2022 issued under Section 148 of the Income Tax Act, 1961 [**the Act**] in respect of Assessment Year [**AY**] 2013-14. It is the petitioner's case that the said notice has been issued beyond the period of limitation.

2. The Assessing Officer [**AO**] had issued a notice under Section 148 of the Act in respect of AY 2013-14 on 30.06.2021. Although, the said notice was issued after 31.03.2021, it was issued in accordance with the statutory regime of reassessment (Section 147 to 151 of the Act) as was in force prior to 01.04.2021.

3. The petitions challenging the said notices were allowed by this court,

in ***Mon Mohan Kohli v. Assistant Commissioner of Income Tax and Ors.: Neutral Citation No.: 2021:DHC:4181-DB.*** Several other High Courts had also quashed similar notices. The orders passed by this court and other Courts setting aside such notices were appealed by the Revenue before the Supreme Court. In ***Union of India & Ors. v. Ashish Agarwal: (2023) 1 SCC 617***, the Supreme Court passed directions under Article 142 of the Constitution of India, directing that such notices issued under Section 148 of the Act be construed as the notices under Section 148A(b) of the Act. The AO was also directed to provide the information required to accompany notices under Section 148A(b) of the Act.

4. In the present case, the AO provided such information by issuing a notice under Section 148A(b) of the Act on 01.06.2022. The petitioner was granted time till 16.06.2022 to respond to the said notice. The petitioner furnished his response on 11.06.2022.

5. Since the notice under Section 148 of the Act – which was directed to be construed as a notice under Section 148A(b) of the Act in terms of the decision of the Supreme Court in ***Union of India & Ors. v. Ashish Agarwal*** (*supra*)] – was issued on the last date of expiry of limitation as extended by virtue of Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, the AO had no time available for issuance of a notice under Section 148 of the Act. Therefore, the Fourth Proviso to Section 149(1) of the Act is applicable and the AO had a further period of seven days for issuance a notice under Section 148 of the Act. However, the notice was not issued within the said period of seven days; that is on or before 23.06.2022. In view of the above, the present notice has been issued beyond the period of limitation.

6. It is material to note that the AO had also issued another notice dated 27.06.2022 under Section 148A(b) of the Act and the petitioner was provided fifteen days' time to respond to the same. The said period expired on 12.07.2022. Even if the period of limitation is reckoned from the end of the period of fifteen days provided to the petitioner for responding to the notice dated 27.06.2022, the said period would expire on 19.07.2022.

7. The aforesaid issue is covered 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***. The learned counsel appearing for the Revenue does not dispute the same.

8. In view of the above, the present petition is allowed and the impugned notice and all proceedings emanating therefrom are set aside.

VIBHU BAKHRU, J

TEJAS KARIA, J

MARCH 28, 2025
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Click here to check corrigendum, if any