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

% *Date of Decision: 08.09.2025*

\+ **W.P.(C) 4154/2023**

MAHENDRA KUMAR JHANWAR .....Petitioner

Through: Mr. Kapil Goel, Adv.

versus

INCOME TAX OFFICER WARD 36(1) NEW DELHI .....Respondent

Through: Mr. Debesh Panda, SSC, Ms. Zehra Khan, JSC, Mr. V. Singh, JSC and Ms. Ravicha Sharma, Adv.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

V. KAMESWAR RAO, J. (*ORAL*)

1. This petition has been filed with the following prayers:

"A. Issue of a writ of certiorari, mandamus, prohibition or any other writ and/or order and or directions quashing the impugned initial notice u/s 148 dated 17.06.2021 and impugned subsequent notice(s) dated 28.05.2022 which is illegal , unlawful , lacking jurisdiction and time barred;
B. Issue of a writ of certiorari, mandamus, prohibition or any other writ and/or order and or directions quashing the impugned subsequent notice(s) dated 28.05.2022 which is contrary to expl. 1 to sec. 148 of 1961 Act without providing complete /relevant relied upon material;
C. Issue of a writ of certiorari, mandamus, prohibition or any other writ and/or order and or directions quashing the impugned order passed u/s 148A(d) dated 28.07.2022 being in violation of mandate of 1961 Act and travelling beyond the scope of cryptic information as supplied u/s 148A(b) on 28.05.2022 and against "consistency" principle ;

D. Issue of a writ of certiorari, mandamus, prohibition or any other writ and/or order and or directions quashing the impugned notice u/s 148 dated 28.07.2022 being time barred , jurisdictionally flawed and based on unlawful and illegal order passed u/s 148A(d) which is totally based on new and fresh set of allegations never confronted to petitioner;
E. Issue of a writ of certiorari, mandamus, prohibition or any other writ and/or order and or directions quashing the impugned proceedings u/s 148/148A for AY 2013-2014, being based on ultra vires CBDT instruction dated 01/2022 dated 11.05.2022 and contrary stand of CBDT in its instruction no. 1/2022 dated 11.05.2022 (para 6.1 & para 6.2) may please be declared ultra vires to sec. 149(1) first proviso;Humble Prayer for reference to Larger bench jurisdiction (public importance issue) Time barring Issue of limitation u/s 149(1)(b) first proviso: in light of decision of Touchstone case may please be referred to larger bench in light of Hon'ble Gujarat and Allahabad high court recent decisions (supra) as per well acknowledged principle of uniform interpretation on central legislation as same (touchstone) is per incuriam and rendered sub silentio with all due respect ;
F. Issue of a writ of certiorari, mandamus, prohibition or any other writ and/or order and or directions quashing the impugned proceedings u/s 148/148A in violation of sec. 151A/CBDTNotification dated 29.03.2022; G. Issue a writ in the nature of mandamus or an order prohibiting the operation of the impugned proceedings u/s 148, as deemed fit and proper in the facts and circumstances of the present case as initiated by the respondent u/s 148/148A of the 1961 Act; H. Pass any other order(s) as this Hon'ble Court may deem to be fit and more appropriate may please give order to grant interim relief to the petitioner by staying the operation of impugned order passed by respondent u/s 148A(d)/consequential notice u/s 148, which suffers from series of jurisdictional errors as pointed above;"

2. The submission of Mr. Kapil Goel, learned counsel for the petitioner is that this petition relates to Assessment Year (AY) 2013-14. The initial

notice under Section 148 of the Income Tax Act (the Act) was issued on 17.06.2021 and subsequent notice under Section 148A(b) was issued on 28.05.2022. The order under Section 148A(d) was passed under the amended law on 28.07.2022. Similarly, the notice under Section 148 of the amended law was issued on 28.07.2022. According to him, the entire proceedings are time barred under the first proviso to Section 149(1) being contrary to the mandate of the Supreme Court laid down in ***Union of India v. Ashish Aggarwal,*** **2022 SCC OnLine SC 543.** He also draw support from the judgments of the Supreme Court in the case of ***Union of India & Ors. v. Rajeev Bansal,*** **Civil Appeal No. 8629/2024** and ***Ram Balram Buildhome Pvt. Ltd. v. Income-tax Officer,*** **2025: DHC: 547-DB**. He also refers to a similar judgment of this Court in the case of ***Rajesh Agarwal v. ACIT***, **W.P.(C) 5122/2023** dated 30.07.2025 and also the judgment of the Supreme Court in ***Deputy Commissioner of Income Tax v. Reliance Industries Limited, SLP(C) Diary No. 56889/2024*** decided on 24.02.2025.

3. Mr Goel has also placed a chart of relevant dates to show that the matter is covered by the case of ***Ram Balram Buildhome Pvt. Ltd.***(***supra***). The details of the chart are reproduced as under:

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WP (C) NO	4154/2023
NAME OF CASE	***MAHENDRA KUMAR JHANWAR VS. INCOME TAX OFFICER***
ASST YEAR	2013-2014
OLD LAW /INITIAL NOTICE U/S 148	17.06.2021 TIME B/W 17 & 30 JUNE- 14 DAYS
148A(B) NOTICE	28.05.2022
REPLY 148A(C)	09.06.2022 14 DAYS ADDED TAKES TO 16 JUNE 2022
148 NEW LAW NOTICE AND 148A(C) ORDER	28.07.2022
STATUS	**TIME BARRED AS PER ILLUSTRATION GIVEN IN RAJEEV BANSAL**

Signature Not Verified
Signed By:PRADEEP SHARMA
Signing Date:15.09.2025 11:07:08

	(PARA 112); Also reliance is placed on this hon;ble Court decision in case of *Ram Balram Buildhome Pvt. Ltd. v. Income Tax Officer and Anr.: Neutral Citation No.: 2025:DHC:547-DB applied in* AGARWAL ORNAMENTS PVT LTD vs ITO W.P.(C) 17566/2022 **21.03.2025;** DELHI AUTO AND GENERAL FINANCE PRIVATE LIMITED vs ACIT W.P.(C) 3654/2023 28.03.2025; IRA MALHOTRA vs ACIT W.P.(C) 391/23023 18.03.2025; PRATISHTHA GARG vs ACIT W.P.(C) 16681/2024 25.03.2025 **Same matters disposed off in case of Rajesh Agarwal vsACIT W.P.(C) 5122/2023 Date 30.07.2025 (Hon'ble Supreme Court in the case of "Deputy Commissioner of Income Tax v. Reliance Industries Limited" SLP(C) Diary No. 56889/2024 decided on 24.02.2025) Also refer Hon'ble High Court of Madhya Pradesh in the case of Sandeep Singh Saluja v. Income Tax Department and Others 2025:MPHC-IND:19495**

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4. On the other hand, Mr. Debesh Panda, learned counsel appearing for the respondent/Revenue by referring to the judgment of this Court in ***Kawaljeet Kaur v. Assistant Commissioner of Income Tax Circle (34) 1 Delhi & Ors.*,W.P.(C) 3908/2023** and connected petitions wherein it was held as under, would urge that the matter be remanded back to the AO to decide the surviving period by passing a reasoned order:

> *"26. Having identified the broad principles which would now govern the question of surviving time, we are of the considered opinion that rather than this Court undertaking the gargantuan exercise of examining individual facts, it would appear to be expedient to frame directions requiring the AOs to frame an order with respect to the individual reassessment notices in light of the judgment of the Supreme Court in Rajeev Bansal and of this Court in Ram Balram, T.K.S Builders, Abhinav Jindal and Naveen Kumar Gupta.*
>
> *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.
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. Mr. Goel is agreeable to the submissions made by Mr. Panda.

6. Accordingly, the matter is remanded back to the AO to decide the issue of surviving period by taking into consideration the aforesaid judgments and decide the same by granting an opportunity of hearing to the petitioner or its representative and pass a detailed and speaking order.

7. The above exercise shall be carried out within eight weeks from the date of receipt of the order as an outer limit.

8. In view of the above, the petition stands disposed of.

V. KAMESWAR RAO, J

VINOD KUMAR, J

SEPTEMBER 08, 2025
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