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

\+ W.P.(C) 2899/2025 and CM APPLs. 13794-95/2025

SHRI DEVENDER MEHTA .....Petitioner

Through: Mr Prateek Gattani, Advocate.

versus

ASSESSMENT UNIT, INCOMETAX DEPARTMENT AND ORS. .....Respondents

Through: Mr Anurag Ojha with Ms Hemlata Rawat and Mr V.K. Saksena, Advocates.

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

O R D E R

% **18.03.2025**

1. The petitioner has filed the present petition impugning an assessment order dated 03.02.2025 [the **impugned assessment order**] in respect of Assessment Year (AY) 2019-20. The assessment order has been passed in reassessment proceedings under Section 147 of the Income Tax Act, 1961 [**the Act**], which were commenced by issuance of a notice dated 13.04.2023 [**impugned notice**] issued under Section 148 of the Act. It is the petitioner's case that the impugned notice – which was issued on 13.04.2023 – was beyond the period of three years as stipulated under Section 149(1)(a) of the Act. It is contended that since the initiation of reassessment proceedings was barred by limitation, the impugned assessment order is

required to be set aside.

2. The learned counsel appearing for the petitioner contends that the impugned notice was preceded by a notice under Section 148A(b) of the Act, which was issued on 28.03.2023. In terms of the said notice the petitioner was afforded time till 06.04.2023 to file his reply to the information, which according to the Assessing Officer (**AO**) was suggestive of the petitioner's income escaping assessment.

3. The petitioner responded on 06.04.2023. The petitioner contends that the order under Section 148A(d) of the Act as well as the notice under Section 148 was required to be issued within a period of four days thereafter. The learned counsel submits that the period of seven days, as mentioned in the third proviso to Section 149(1) of the Act, is required to be computed after accounting for the three days' period which remained till the end of the financial year, which ended on 31.03.2023. Thus, the AO had only four days after 06.04.2023 to issue a notice under Section 148 of the Act. The relevant extract of Section 149(1) reads as under:

> "**Time limit for notice**. –
>
> 149.(1) No notice under section 148 shall be issued for the relevant assessment year,—
>
> (a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);
>
> (b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax,

represented in the form of—

(i) an asset;

(ii) expenditure in respect of a transaction or in relation to an event or occasion; or

(iii) an entry or entries in the books of account,

which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more:

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Provided also that where immediately after the exclusion of the period referred to in the immediately preceding proviso, the period of limitation available to the Assessing Officer for passing an order under clause (d) of Section 148A does not exceed seven days, such remaining period shall be extended to seven days and the period of limitation under this sub-section shall be deemed to be extended accordingly."

4. A plain reading of the proviso indicates that where the time period available for the AO to pass an order under Clause (d) of the Section 148A is less than seven days, the remaining period shall be extended to seven days, and the period of limitation shall be extended accordingly. A notice under Section 148 of the Act is required to be accompanied by an order under Section 148A(d) of the Act.

5. In terms of Section 149(1)(a) of the Act, no notice under Section 148 can be issued after expiry of a period of three years from the end of the assessment year. Thus, the notice under Section 148 of the Act was required to be issued on or before 31.03.2023.

6. However, the procedure required the AO to issue a notice under Section 148A(b) of the Act and a minimum time of seven days to respond to the said notice. In terms of the third proviso, if the time available for the AO to pass an order under Section 148A(d) – which was required to be accompanied with a notice under Section 148 of the Act – is less than seven days, a period of seven days was required to be provided to the AO to pass such an order. In view of the above, the limitation for issuing a notice under Section 148 of the Act stood extended by a period of seven days from 06.04.2023 being the last date on which the petitioner was required to file a response to the notice dated 28.03.2023 issued under Section 148A(b) of the Act.

7. In the present case, the impugned notice was issued within the period of limitation as the same was issued on 13.04.2023. In view of the above, the petitioner's contention that the impugned notice under Section 148 of the Act was issued beyond the period of limitation, and therefore, the assessment order for AY 2019-20 is barred by limitation is unmerited.

8. The learned counsel appearing for the petitioner states that apart from the said issue there is no other issue that is required to be addressed in this petition.

9. In view of the above, the petition is dismissed. Pending applications shall also stand disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

MARCH 18, 2025/tr

Click here to check corrigendum, if any