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

\+ W.P.(C) 4933/2023

SIMU AHUJA .....Petitioner

Through: Ms. Rano Jain, Mr. Venketesh Chaurasia & Ms. Sakshi Rustagi, Advs.

Versus

ITO, WARD 36(1), DELHI .....Respondent

Through: Mr. Sanjay Kumar, Ms. Monica Benjamin & Ms. Easha Kadian, Advs.

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

<u>O R D E R</u>

% **18.03.2025**

1. The petitioner has filed the present petition impugning the notice dated 27.03.2023 [**the impugned notice**] issued under Section 148 of the Income Tax Act, 1961 [**the Act**] in respect of Assessment Year [**AY**] 2019-20. The impugned notice was preceded by a notice dated 17.02.2023 issued under Section 148A(b) of the Act. By the said notice, the petitioner was called upon to show cause why the assessment for AY 2019-20 not be reopened. The Annexure to the said notice set out the information which, according to the Assessing Officer [**AO**], is suggestive of the petitioner's income escaping assessment for the relevant AY. The tabular statement which sets out the said information is reproduced below:

Information code	**Information Description**	**Source**	**Count**	**Amount Description**	**Amount (Rs.)**
SFT-005	Time deposits (other than a time deposit made through	Indusind Bank Limited	5	Aggregate gross amount received	2,22,00,000

	renewal of another time deposit)			from person- Aggregate gross amount paid to the person	
TDS-194A	TDS Statement – Interest other than interest on securities (Section 194A)	Kotak Mahindra bank Limited	3	Amount paid or credited	1,36,980
				Total	2,23,36,980

2. The petitioner responded to the said notice by a letter dated 21.02.2023. She explained that in so far as the time deposits aggregating to ₹2,22,00,000/- are concerned, the same belong to her husband. He had transferred the funds for making the said deposits from his savings account during the period from 02.01.2019 to 18.02.2019.

3. She stated that there were seven Fixed Deposit Receipts maintained with the Central Bank of India, which related to her husband, Mr. Anil Kumar, and had matured during the said period. The said amount had been credited into the joint bank account of the petitioner and her husband, where she was the second holder.

4. The petitioner stated that she was the second holder in the said savings bank accounts with her husband, and he had transferred an amount of ₹2,22,00,000/- from his savings bank account to the joint account. She also stated that the interest paid by the concerned bank (Indusind Bank) was subject to tax deducted at source, which was credited to the account of the petitioner's husband. She also set out the relevant entries as per the Form-26 AS of her husband.

5. In addition to the Form-26 AS pertaining to her husband for Financial

Year 2018-19 [AY 2019-20], the petitioner also forwarded the income tax returns of her husband for AY 2019-20; a copy of the report establishing that the income from the time deposits was reflected as income from other sources in the return filed by her husband; the computation of income of her husband (Mr. Anil Kumar) for AY 2019-20; as well as the relevant bank statements.

6. Insofar as ₹1,36,980/- received from Kotak Mahindra Bank Limited is concerned, the petitioner acknowledged that the same was her income. She stated that she is a housewife and the said income, by way of bank interest, was her only income for the relevant AY.

7. Notwithstanding that the petitioner had provided more than sufficient material to establish that there was no income that had escaped assessment in her hands, and the information available with the AO pertained to her husband, who had disclosed the income from time deposits in his returns; the AO disregarded the same and passed the impugned order under Section 148A(d) of the Act, holding that it was a fit case for issuance of a notice under Section 148 of the Act.

8. The AO's reasoning, as reflected in the impugned order passed under Section 148A(d) of the Act, is reproduced below:

> "4.1 The Reply and explanations offered by the assessee in response to SCN u/s 148 A(b) has been examined and considered u/s 148A(c) of the Income Tax Act. The assessee has submitted that the funds belongs to the husband of the assessee and has been transferred from his bank account. The assessee has not submitted any documentary evidence to explain the source of funds utilized for creating the FDRs and also the reason for transferring the funds from the Husband's bank account to her own bank account. The assessee has not

filed return of income, and in absence of documentary evidence/justification of source of funds the reply filed by the assessee cannot be accepted."

9. We find the aforesaid reasoning of the AO to be palpably erroneous. The allegations against the petitioner were that her income had escaped assessment and the information related to time deposits with the bank. The petitioner had adequately explained that (i) none of the time deposits were made either in her name or from her funds; (ii) the funds for making the time deposits belonged to her husband; (iii) her husband had duly disclosed about the time deposits in his income tax returns; (iv) the income from the said time deposits had been disclosed by her husband in his income tax returns; and (v) that the tax deducted at source on the income was in the name of her husband.

10. Thus, the decision of the AO is clearly without application of mind and is in complete disregard of the explanation as provided by the petitioner.

11. For the reasons stated above, the impugned order passed under Section 148A(d) of the Act is set aside. Consequently, the impugned notice and the proceedings initiated pursuant thereto are unsustainable. The same are, accordingly, set aside.

12. The petition is allowed in the aforesaid terms.

VIBHU BAKHRU, J

TEJAS KARIA, J

MARCH 18, 2025

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Click here to check corrigendum, if any