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

\+ W.P.(C) 5174/2023 & CM No.20198/2023

INTERGLOBE AVIATION LIMITED .....Petitioner

Through: Mr. Rohit Jain, Mr. Aniket D. Agrawal & Mr. Abhishek Singhvi, Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX & ORS. .....Respondents

Through: Mr. Abhishek Maratha, Mr. Apoorv Agarwal, Mr. Parth Samwal, Mr. Nupur Sharma, Mr. Gaurav Singh, Mr. Bhanukaran Singh Jodha, Ms. Muskaan Goel & Mr. Himanshu Gaur, Advs.

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

O R D E R

% **28.04.2025**

1. The petitioner [**Assessee**] has filed the present petition, *inter alia*, impugning a notice dated 04.11.2022 [**the impugned notice**] issued under Section 148 of the Income Tax Act, 1961 [**the Act**] in respect of the Assessment Year [**AY**] 2014-15. It is the Assessee’s case that the impugned notice has been issued beyond the prescribed period of limitation.

2. The initial notice under Section 148 of the Act for AY 2014-15 was issued on 30.06.2021. The said notice was unsustainable as it was issued in accordance with the statutory regime regarding reassessment in force prior to 31.03.2021. This court in the case of ***Mon Mohan Kohli v. Assistant Commissioner of Income Tax & Anr.: Neutral Citation No.: 2021:DHC:4181-DB*** had set aside such notices that were issued after 31.03.2021 without following the procedure as prescribed under Section

148A of the Act. However, the Supreme Court in the case of ***Union of India & Ors. v. Ashish Agarwal: (2023) 1 SCC 617***, issued directions for considering the said notices as the notices issued under Section 148A(b) of the Act and further granted time to the Assessing Officer to supply the material on which such notices were premised.

3. In compliance with the directions issued by the Supreme Court in the case of ***Union of India & Ors. v. Ashish Agarwal*** (*supra*), the Assessing Officer [**AO**] provided information and material to the Assessee on 21.05.2022. The Assessee was granted two weeks' time to respond to the said notice. The Assessee responded to the notice dated 21.05.2022 on 06.06.2022.

4. The petitioner assailed the order passed under section 148A(d) of the Act and the consequential notice issued under Section 148 of the Act by the AO, both dated 23.07.2022 before this court, in the writ petition [W.P.(C) 12154/2022] captioned *Interglobe Aviation Limited v. ACIT*. The petition was allowed in terms of the order dated 18.10.2022; the said order and notice were set aside and the matter was remanded to the Assessing Officer **[AO]** with a direction to decide the aforesaid issue in accordance with law within four weeks from that date.

5. The AO passed an order under Section 148A(d) of the Act on 04.11.2022. According to the Assessee, the same was beyond the period as stipulated.

6. In the present case, the period of six years from the end of the assessment year for issuing a notice under Section 148 of the Act expired on 31.03.2021. Thus, in terms of Section 149 of the Act, a notice under Section

148 of the Act could not be issued. However, the said period was extended by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 [**TOLA**]. Consequently, the time limit for issuing such a notice was extended to 30.06.2021.

7. The original notice under section 148 of the Act was issued on 30.06.2021, which was the last day before the expiry of the period of limitation.

8. As noted above, the said notice was deemed to be a notice under Section 148A(b) of the Act by virtue of the decision of the Supreme Court in ***Union of India & Ors. v. Ashish Agarwal*** (*supra*). The Supreme Court also granted further time to provide the material, which was required to accompany such a notice. As explained by the Supreme Court in the case of ***Union of India v. Rajeev Bansal: 2024 SCC OnLine SC 2693***, the period from the date of the issuance of the notice till 04.05.2022, the date on which the Supreme Court had rendered the decision in ***Union of India & Ors. v. Ashish Agarwal*** (*supra*) is required to be excluded in terms of the fifth proviso to Section 149(1) of the Act. Additionally, the time provided till the date of providing the material, which should have accompanied a notice under Section 148A(b) of the Act, as well as the time available to the assessee to respond to the said notice was also required to be excluded by virtue of the third Proviso to Section 149(1) of the Act, as applicable at the material time.

9. Since the initial notice under Section 148 of the Act –subsequently construed as a notice under Section 148A(b) of the Act – was issued on the last date of the limitation; there was no time available for the AO to issue a

notice under Section 148 of the Act after the petitioner had furnished its reply to the said notice. Thus in terms of sixth proviso to Section 149(1) of the Act, the AO had seven days to issue the notice under Section 148 of the Act, which expired on 13.06.2022. The impugned notice was issued on 23.07.2022, which is after the period for issuing such a notice had expired.

10. Concededly, the said controversy is covered in favour of the Assessee 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***.

11. The present petition is, accordingly, allowed and all proceedings initiated pursuant thereto are set aside. The pending application is also disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 28, 2025

'gsr'

Click here to check corrigendum, if any