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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 3678/2025 and CM APPL. 17247/2025
MANSI NARANGPetitioner
Through: Mr Nischay Kantoor, Advocate.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL
CIRCLE 28 DELHI & ORS.Respondents
Through:

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

ORDER
15.05.2025

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1. The petitioner has filed the present petition, *inter alia*, impugning notice dated 30.08.2024 [**the impugned notice**] issued under Section 148 of the Income Tax Act, 1961 [**the Act**] in respect of assessment years [**AY**] 2016-17.
2. The petitioner had filed her original return of income for AY 2016-17 on 30.07.2016, declaring an income of ₹9,91,200/-. On 14.10.2020, a search was conducted under Section 132 of the Act in the case of Sh. Manoj Kumar Singh, his associates, and various transacting parties, which also covered the premises and locker of the petitioner.
3. It is the petitioner's contention that no incriminating material pertaining to the searched persons was found during the said search. Accordingly, any proceedings ought not to have been initiated under Section 153A of the Act; however, contrary to the statutory mandate, the respondent issued a notice under Section 148 of the Act on 30.03.2021.



4. Subsequently, proceedings under Section 153A of the Act were initiated against the petitioner by issuance of a notice dated 04.06.2021. Pursuant to the said notice, an assessment order dated 25.02.2022 was passed under the Section 153A read with section 143(3) of the Act. The petitioner contends that the assessment year in question was a completed assessment and, in the absence of any incriminating material found during the course of the search, the addition of ₹1,62,49,042/- made by the Assessing Officer [AO] was without jurisdiction and contrary to settled legal principles.

5. Aggrieved by the assessment order dated 25.02.2022 passed by the AO, the petitioner preferred an appeal before the Commissioner of Income Tax (Appeals) [CIT(A)] on 11.03.2022. On 21.08.2023, the CIT(A) deleted the total addition of ₹1,62,49,042/- made by the AO, by relying upon ***PCIT v. Abhisar Buildwell Pvt. Limited: (2024) 2 SCC 433***, stating that no addition was permissible in the absence of any incriminating material, as the year in question was not an abated assessment year.

6. On 07.08.2024, relying on Section 150 of the Act and CBDT Instruction No. 1/2023, the Respondent issued a notice under Section 148A(b) of the Act requiring the petitioner to show cause why the assessment for the relevant assessment year [AY 2016-17] should not be reopened under Section 148 of the Act.

7. In response to the aforesaid notice, the petitioner filed a reply on 13.08.2024, challenging the reassessment proceedings as bad in law and that Section 150(1) of Act would have no application, as there was no direction from the Supreme Court to reopen the case, citing the rejection of such a prayer by the Revenue in the ***PCIT v. Abhisar Buildwell Pvt. Ltd. (supra)***.



8. On 30.08.2024, the Respondent, arbitrarily rejected the petitioner's reply, and passed an order under Section 148A(d) of the Act, deeming the case fit for reopening and further issued a notice under Section 148 of the Act, asserting that the proceedings were within the limitation period by virtue of Section 150 of the Act.

9. The impugned notice is clearly beyond the period as stipulated under Section 149(1) of the Act. However, it is the Revenue's case that the impugned notice has been issued within the stipulated time by virtue of the *non-obstante* clause under Section 150 of the Act. The Revenue claims that the impugned notice is premised on the 'findings and directions' as embodied in the decision of the Supreme Court in ***Principal Commissioner of Income-tax, Central-3 v. Abhisar Buildwell (P.) Ltd.: (2024) 2 SCC 433***. In the said decision, the Supreme Court had held that in certain cases, the assessing officer (AO) could exercise its powers under Section 147/148 of the Act, even in cases which are related to a search conducted under Section 132 of the Act or a requisition made under Section 132A of the Act. The Revenue construes the said decision as constituting a finding or a direction for issuing such notices in respect of cases such as that of the assessee's.

10. The question whether the decision in the case of ***Principal Commissioner of Income-tax, Central-3 v. Abhisar Buildwell (P.) Ltd.*** (*supra*) constitutes a finding and/or a direction for issuance of notices under Section 148 of the Act in cases, which are otherwise beyond the period as stipulated under Section 149 of the Act is no longer *res integra*. This Court in the case of ***ARN Infrastructures India Ltd. v. Assistant Commissioner of Income Tax Central Circle-28 Delhi & Ors.: Neutral Citation No.:2024:DHC:7423-DB*** had rejected a similar contention. The relevant



extract of the said decision is set out below:

“38. It is pertinent to note that a reference to Sections 147 and 148 of the Act in *Abhisar Buildwell* firstly appears in paragraph 33 of the report and where the Supreme Court observed that in cases where a search does not result in any incriminating material being found, the only remedy that would be available to the Revenue would be to resort to reassessment.

39. However, the Supreme Court caveated that observation by observing that the initiation of reassessment would be “.....*subject to fulfilment of the conditions mentioned in Sections 147/148, as in such a situation, the Revenue cannot be left with no remedy*”. This sentiment came to be reiterated with the Supreme Court observing that the power of the Revenue to initiate reassessment must be saved failing which it would be left with no remedy. It was thereafter observed in paragraph 36.4 of the report that insofar as completed or unabated assessments were concerned, they could be reopened by the AO by invocation of Sections 147/148 of the Act, subject to the fulfillment of the conditions “.....*as envisaged/mentioned under Sections 147/148 of the Act and those powers are saved*”.

40. It thus becomes apparent that the liberty which the Supreme Court accorded and the limited right inhering in the Revenue to initiate reassessment was subject to that power being otherwise compliant with the Chapter pertaining to reassessment as contained in the Act. The observations of the Supreme Court cannot possibly be read or construed as a carte blanche enabling the respondents to overcome and override the restrictions that otherwise appear in Section 149 of the Act. The observations of the Supreme Court in *Abhisar Buildwell* were thus intended to merely convey that the annulment of the search assessments would not deprive or denude the Revenue of its power to reassess and which independently existed. However, the Supreme Court being mindful of the statutory prescriptions, which otherwise imbue the commencement of reassessment,



qualified that observation by providing that such an action would have to be in accordance with law. This note of caution appears at more than one place in that judgment and is apparent from the Supreme Court observing that the power to reassess would be subject to the fulfilment of the conditions mentioned in Sections 147 and 148 of the Act.”

11. Plainly, the controversy involved in this petition is covered by the decision of this court in ***ARN Infrastructures India Ltd. v. Assistant Commissioner of Income Tax Cental Circle-28 Delhi & Ors.*** (*supra*). The contention that the time period as stipulated under Section 149 of the Act is not applicable, in the given facts, is erroneous and thus rejected.

12. The petition is, accordingly, allowed and the impugned notice is set aside. Pending application stands also disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 15, 2025/tr

[Click here to check corrigendum, if any](#)