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

\+ W.P.(C) 4098/2025 and CM APPL. 19049/2025

HARISH KUMAR ANAND .....Petitioner

Through: Mr V.K. Sabharwal, Mr R.B. Gupta and Mr Rajiv Kumar, Advocates.

versus

CHIEF COMMISSIONER INCOME TAX 1 & ORS. .....Respondents

Through: Mr Shlok Chandra, SSC with Ms Naincy Jain, Ms Madhavi Shukla and Mr Ujjwal Jain, Advocates.

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

O R D E R

% 16.05.2025

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 29.08.2024 [**impugned order**] passed under Section 148A(d) of the Income Tax Act, 1961 [**the Act**] holding that it was a fit case for issuance of a notice under Section 148 of the Act in respect of Assessment Year [**AY**] 2018-19.

2. The impugned order was passed pursuant to a notice dated 09.08.2024 issued under Section 148A(b) of the Act, whereby the petitioner was called upon to show cause why a notice under Section 148 of the Act not be issued by furnishing a reply along with supporting documents on or before 16.08.2024. It is the petitioner's case that the time afforded to the petitioner was less than minimum period of seven days.

3. The petitioner had requested for further time to file a reply and submit the necessary documents. However, the petitioner claims that the said

request was not considered and the impugned order was passed. In the aforesaid context, this court had passed the following order on 30.04.2025:

> "1. The petitioner has filed the present petition impugning a notice dated 29.08.2024 issued under Section 148 of the Income Tax Act, 1961 [**the Act**], which was accompanied by an order dated 29.08.2024 passed under Section 148A(d) of the Act. The said order was passed pursuant to a notice dated 09.08.2024 issued under Section 148A(b) of the Act, whereby the petitioner was called upon to furnish his response to the said notice on or before 16.08.2024.
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> 2. The petitioner contends that the time afforded to the petitioner was only five working days since 10.08.2024 and 11.08.2024 fell on a Saturday and a Sunday. The petitioner requested for an adjournment and further time to furnish a reply on 16.08.2024. However, the Assessing Officer [**AO**] passed the order without granting any such adjournment.
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> 3. The said averment is disputed by the learned counsel for the Revenue. He states that the petitioner was granted time till 22.08.2024 in response to his request. However, the petitioner failed to furnish any response to the notice issued under Section 142A(b) of the Act.
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> 4. The learned counsel has also handed over a screenshot of the ITBA Portal.
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> 5. In view of the above, we are *prima facie* of the view that the impugned order and the impugned notice cannot be assailed on the ground that it had been passed without affording the petitioner an adequate opportunity to respond to the notice issued under Section 148A(b) of the Act.
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> 6. In the first instance, the petitioner was afforded seven days' time to file a reply. If the Revenue's contention is accepted that the petitioner's request for further time was acceded to and the same was communicated through the ITBA portal, the petitioner's claim would be rendered unfounded.
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> 7. However, the learned counsel appearing for the petitioner stoutly disputes that the petitioner's request for adjournment was acceded to. He disputes that the AO had granted further time by a communication placed on the portal. In other words, the learned counsel disputes the authenticity of the screenshots as handed over

> by the learned counsel for the Revenue.
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> 8. In the aforesaid circumstances, we consider it apposite to direct the concerned AO to file an affidavit with an advance copy to the learned counsel for the petitioner.
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> 9. Let the same be filed within a period of one week from date. Rejoinder, if any, be filed before the next date of hearing.
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> 10. List on 13.05.2025."

4. As is apparent from the above, the controversy is in a short compass – whether the petitioner was informed that its request for further time to file a reply to notice issued under Section 148A(b) had been accepted.

5. The learned counsel for the Revenue has also handed over a screenshot from the portal, which bears the following remarks:

> "As the matter is time barring in nature your case is being adjourned to 22.08.2024 for submitting full and final reply alongwith supporting documentary evidences. It may also be noticed that no further adjournment will be provided and action will be initiated as per the provision of Income Tax Act, 1961."

6. However, the Revenue has not controverted the petitioner's claim that the said remarks were not communicated to him. The learned counsel appearing for the Revenue states, on instructions, that due to a technical glitch, the remarks as noted above, were not visible to the petitioner on its portal. And, therefore, the matter may be remanded to the Assessing Officer [**AO**] for consideration afresh.

7. In view of the above, the present petition is allowed. The impugned order is set aside.

8. Consequently, the impugned notice under Section 148 of the Act and the proceedings initiated pursuant to the said notice, are also set aside. The petitioner may respond to the notice dated 09.08.2024 issued under Section 148A(b) of the Act within a further period of two weeks from date. The AO

shall consider the same and pass an appropriate order in accordance with law.

9. The petition is allowed in the aforesaid terms. The pending application is also disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 16, 2025
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Click here to check corrigendum, if any