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

\+ W.P.(C) 4195/2025, CM Nos.19446/2025 & 19447/2025

GSM AUTO SPARES PRIVATE LIMITED .....Petitioner

Through: Mr. Sumit Lalchandani, Mr. Salil Kapoor, Ms. Ananya Kapoor, Mr. Shivam Yadav, Mr. Utkarsh Kumar Gupta & Mr. Tarun Chanana, Advs.

Versus

ASSESSMENT UNIT INCOME TAX DEPARTMENT DELHI AND ANR .....Respondents

Through: Mr. Abhishek Maratha, Mr. Apoorv Agarwal, Mr. Parth Samwal, Ms. 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. Issue notice.

2. The learned counsel for the Revenue accepts notice.

3. The petitioner has filed the present petition, *inter alia*, impugning an order dated 23.03.2025 [**impugned order**] passed by the Assessing Officer [**AO**] on the ground that it has been passed in violation of the judgments rendered by the Supreme Court in ***Union of India & Ors. v. Rajeev Bansal: 2024 INSC 754*** and by this court in ***Ram Balram Buildhome Pvt. Ltd. v. Income Tax Officer and Anr.: Neutral Citation No.: 2025:DHC:547-DB***.

4. The petitioner had filed its return of income dated 30.09.2014 for Assessment Year [**AY**] 2014-15 declaring a total income of ₹64,77,780/-.

5. A notice under Section 148 of the Income Tax Act, 1961 [**Act**] was issued by the AO on 30.06.2021 seeking to initiate reassessment proceedings in respect of AY 2014-15. The said notice was issued under the provisions relating to reassessment, as were in force prior to 31.03.2021. Similar notices were set aside by this court in terms of its decision dated 15.12.2021 in ***Mon Mohan Kohli v. Assistant Commissioner of Income Tax & Anr.: Neutral Citation No.: 2021:DHC:4181-DB***. However, subsequently in an appeal preferred against the decision rendered by the Allahabad High Court taking a similar view, the Supreme Court in ***Union of India & Ors. v. Ashish Agarwal: (2023) 1 SCC 617*** issued certain directions under Article 142 of the Constitution of India. The Court directed that that the notices issued after 01.04.2021 till the date of the said decision (i.e. 04.05.2022), under the unamended provisions of Sections 147-151 of the Act and without following the procedure prescribed under Section 148A of the Act, would be construed as notices issued under Section 148A(b) of the Act. The AOs were also directed to provide the information and material to the assessees on the basis of which the said notices were premised, within a period of thirty days.

6. In the present case, the AO issued the notice dated 15.05.2022 under Section 148A(b) of the Act for complying with the said direction and petitioner responded to the same by communications dated 01.06.2022 and 21.06.2022.

7. The AO passed an order under Section 148A(d) of the Act on 22.07.2022 and issued a notice dated 23.07.2022 under Section 148 of the Act.

8. Concededly, the said notice is beyond the period of limitation as held

by this court in ***Ram Balram Buildhome Pvt. Ltd. v. Income Tax Officer and Anr.*** (*supra*).

9. The petitioner also challenged the said notice by filing a writ petition being W.P.(C) No.5869/2023 on several grounds, including that the notice was barred by limitation. The said petition along with a batch of petitions was disposed of by a Coordinate Bench of this court on 04.02.2025 [***Kanwaljeet Kaur v. Assistant Commissioner of Income Tax Circle (34) 1 Delhi & Ors. & other connected matters: Neutral Citation No.: 2025:DHC:656-DB***] by directing the AO to examine various grounds including the ground that the notices issued under Section 148 of the Act, which were impugned in those petitions, in the light of various decisions that were rendered by this court on various grounds of challenge. The relevant extract of the said decision is set out below:

> "26. Having identified the broad principles which would now govern the question of surviving time, we are of the considered opinion that rather than this Court undertaking the gargantuan exercise of examining individual facts, it would appear to be expedient to frame directions requiring the AOs to frame an order with respect to the individual reassessment notices in light of the judgment of the Supreme Court in Rajeev Bansal and of this Court in Ram Balram, T.K.S Builders, Abhinav Jindal and Naveen Kumar Gupta.
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> 27. We accordingly dispose of this batch of writ petitions by directing the concerned AOs to evaluate the individual SCNs' under Section 148 of the Act bearing in mind our judgments in T.K.S. Builders, Abhinav Jindal and Naveen Kumar Gupta. These decisions have conclusively settled issues pertaining to the accordal of sanction under Section 151 as well as the authority of the jurisdictional AO to commence and undertake reassessment. Those decisions also lay at rest the challenge which the writ petitioners had raised that an AO is bound to adhere to the procedure prescribed by Section 153C in cases emanating from a search.
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> 28. A similar exercise would have to be undertaken to examine

the issue of surviving period in respect of each individual noticee under Section 148 and which would necessarily be guided by the judgments of Rajeev Bansal and Ram Balram.

29. The concerned AOs shall consequently pass a reasoned and speaking order dealing with the impact of the judgments referred to above upon the impugned reassessment notices and in the manner indicated in paras 27 and 28 of this order. That decision shall thus render a finding on whether the impugned reassessment notices would survive or be liable to be recalled. It shall be open to the writ petitioners to assail any adverse orders that may come to be passed pursuant to the above in accordance with law.

30. In order to facilitate the aforesaid exercise, we accord liberty to the writ petitioners to file written submissions before their respective AOs within a period of three weeks from today and which shall be duly taken into consideration before passing orders in terms of our aforenoted directions.

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32. We further observe that many of the writ petitioners have raised various factual and additional contentions in support of the challenge to the reassessment action. However, we have heard respective sides solely in respect of the issues that we had flagged in our order of 05 August 2024."

10. Concededly, the issue involved in the present petition is squarely covered by the decision of this court in ***Ram Balram Buildhome Pvt. Ltd. v. Income Tax Officer and Anr.*** (*supra*). Notwithstanding the same, the AO has proceeded to pass an order in complete disregard of the express directions of this court.

11. In view of the above, the present petition is allowed and the impugned order dated 23.03.2025 is set aside.

12. It does appear, *prima facie*, that the AO has wilfully disobeyed the directions issued by this court. However, since the learned counsel appearing for the Revenue tenders an unqualified apology on behalf of the concerned AO, we refrain from initiating any proceedings in his regard.

13. The petition is disposed of in the aforesaid terms. Pending applications are also disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 28, 2025
'gsr'

Click here to check corrigendum, if any