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

% *Date of Decision : 28.05.2025*

+ **<u>W.P.(C) 7170/2023</u>**

ACCOLADE HOLDINGS PRIVATE LIMITED (FORMERLY KNOWN AS BLUE EYE ENTERTAINMENT PRIVATE LIMITED)

.....Petitioner

Through: Mr Ved Jain, Mr Nischay Kantoor, Ms Soniya Dodeja, and Mr Sarthak Abrol, Advocates.

versus

INCOME TAX OFFICER, WARD 2(1), DELHI & ORS.

.....Respondent

Through: Mr Sanjay Kumar, SSC, Ms Monica Benjamin and Ms Easha Kadian, JSCs for the Revenue.

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

<u>VIBHU BAKHRU, J.</u> (*ORAL*)

<u>CM APPL. 32476/2025(early hearing)</u>

1. For the reasons stated in the application, the early hearing is allowed.
2. The petition is taken up for hearing today.
3. The hearing scheduled on 04.07.2025 is cancelled.
4. The application stands disposed of.

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5. The petitioner [**Assessee**] has filed the above-captioned petition, *inter alia*, impugning an order dated 31.07.2022 [**impugned order**] passed under Section 148A(d) of the Income Tax Act, 1961 [**the Act**] along with the notice dated 31.07.2022 [**impugned notice**] issued under Section 148 of the Act; in respect of assessment year [**AY**] 2013-14.

6. It is the Assessee's case that the impugned notice has been issued beyond the prescribed period of limitation.

7. The initial notice under Section 148 of the Act for AY 2013-14 was issued on 26.06.2021. The said notice was unsustainable as it was issued in accordance with the statutory regime regarding reassessment as 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.

8. 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 notices issued under Section 148A(b) of the Act, and granting time to the Assessing Officer [**AO**] to supply the material on the basis of which such notices were premised. Therefore, in compliance with the directions issued by the Supreme Court in the case of ***Union of India & Ors. v. Ashish Agarwal*** (*supra*), the AO in the present case, provided information and material to the Assessee on 24.05.2022 and directed the Assessee to furnish the reply within two (2) weeks that is by 07.06.2022. The Assessee responded to the said notice dated 24.05.2022 on 07.06.2022.

9. The AO passed an order under Section 148A(d) of the Act on 31.07.2022. According to the Assessee, the same was beyond the period as stipulated.

10. In the present case, the period of six years from the end of the assessment year available for issuing a notice under Section 148 of the Act expired on 31.03.2020. Thus, in terms of the first proviso to Section 149(1) 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 under Section 148 was extended to 30.06.2021.

11. The original notice under Section 148 of the Act was issued on 26.06.2021, which was four (4) days before the expiry of period of limitation.

12. 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 ***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*) was 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 allowed to the assessee to respond to

the said notice was also required to be excluded by virtue of the fifth proviso to Section 149(1) of the Act, as applicable at the material time.

13. Since the initial notice under Section 148 of the Act – subsequently construed as a notice under Section 148A(b) of the Act – was issued four (4) days before the expiry of period of limitation; there were four (4) days available for the AO to issue notice under Section 148 of the Act after the Assessee had furnished its reply to the said notice. Since this period available to the AO to issue notice under Section 148 of the Act was less than seven (7) days, in terms of the sixth proviso to Section 149(1) of the Act, the AO had seven (7) days to issue notice under Section 148 of the Act. Therefore, the last day to issue notice was 14.06.2022, that is seven days from 07.06.2022. The impugned notice was issued on 31.07.2022, which is after the period for issuing such a notice had expired.

14. 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***.

15. 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

MAY 28, 2025
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Click here to check corrigendum, if any