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

\+ W.P.(C) 9297/2022

HARDEEP SINGH BEING LEGAL HEIR OF LATE SARDAR SAWARUP SINGH .....Petitioner

Through: Mr. Yogesh Jagia and Mr. Amit Sood, Advs.

versus

INCOME TAX OFFICER WARD 68(5) NEW DELHI & ANR. .....Respondents

Through: Mr. Sunil Aggarwal, Sr SC with Ms Priya Sarkar, Mr Viplav Acharya, Jr SCs, Mr. Utkarsh Tiwari and Anugrah Dwivedi, Advs.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% **15.10.2025**

1. This petition has been filed with the following prayers:-

> *"a) Pass an order quashing the impugned notice dated 12/04/2022 bearing no. ITBA/AST/S/148_1/2022-23/1042720439(1) issued to the Petitioner under Section 148 of Act, 1961 for Assessment year 2018-19.*
> *b) Pass an order quashing the impugned order dated 12/04/2022 bearing no. ITBA/AST/F/148A/2022-23/1042720156(1) issued to the petitioner under section 148A(d) of Act for Assessment Year 2018-19.*
> *c) Pass an order declaring consequential proceedings consequent to issue of notice under section 148 of Act as void ab initio."*

2. The facts to be noted are that on 28.08.2018, Sardar Swarup Singh having PAN No. ABFPS3716D has for Assessment Year 2018-19, declared the total taxable income as Rs. 12,09,400/- and exempt Long Term Capital Gain ('LTCG') of Rs. 41,80,042/- against the total sale consideration of Rs. 43,93,391/-. Sardar Swarup Singh died on 19.01.2022.

3. It is the case of the petitioner that the intimation in respect of his death was sent to the Income Tax Officer, Ward 68(5), Delhi vide the letter dated 23.03.2022 by him being the legal heir of the deceased/assessee. On 24.03.2022, a notice under Section 148A(b) of the Income Tax Act, 1961 ('Act') was issued by the Assessing Officer stating that the information suggested that late Sardar Swarup Singh had concealed income of Rs. 56,67,578/-, which had escaped assessment in view of non-disclosure of capital gain in the return of income filed.

4. The case of the petitioner is that the said notice dated 24.03.2022 was received on 26.03.2022. A reply was filed him on 31.03.2022.

5. The notice issued under Section 148A(b) of the Act resulted in an order dated 12.04.2022 issued under Section 148A(d) and a notice under Section 148 of the Act. The order and notice were in the name of late Sardar Swarup Singh through his legal representative Hardeep Singh.

6. The submission of learned counsel for the petitioner is primarily that the initial notice issued under Section 148A(b) of the Act, on 24.03.2022 was against a dead person i.e. late Sardar Swarup Singh. This, according to him, was despite petitioner, the legal heir of late Sardar Swarup Singh, writing a letter dated 23.03.2022 informing the respondents about the death of the assessee. He submits that when the initial notice itself was issued contrary to Section 159 of the Act, any further proceedings thereof are without jurisdiction and hence, the order under Section 148A(d) as well as notice under Section 148 of the Act are liable to set aside. He does not dispute the fact that the respondents, if so advised, can initiate proceedings against late Sardar Swarup Singh through the legal heir, Hardeep Singh, but the same shall be in accordance with law, leaving all the contentions of the

petitioner open to be canvassed before the Assessing Officer.

7. On the other hand, Mr. Sunil Aggarwal, Sr. Standing Counsel for the respondent/Revenue would contest the submissions made by learned counsel for the petitioner on the ground that even if the notice under Section 148A(b) dated 24.03.2022 was issued in the name of late Sardar Swarup Singh, the error/mistake that occurred in the notice has been rectified, as the final order issued under Section 148A(d) as well as notice under Section 148 were issued in the name of late Sardar Swarup Singh through his legal heir Hardeep Singh. As such, the plea advanced by the learned counsel for the petitioner that the proceedings are without jurisdiction is totally untenable. Mr. Aggarwal further submits that even otherwise, nothing precludes the respondents from initiating fresh proceedings against the assessee through legal heir, Hardeep Singh. As according to him, the process of assessment needs to be completed.

8. In support of his submissions, Mr. Aggarwal has relied upon the judgment of the Supreme Court in the case of ***Vipulbhai Mansinghbhai Chaudhary v. State of Gujarat; (2017) 13 SCC 51***.

9. Having heard learned counsel for the parties, there is no dispute that this petition was part of a batch of writ petitions which was decided by this Court vide order dated 24.07.2024. It was de-tagged as it was felt that the facts which arose for consideration in this case were different from those cases. Suffice to state that the said writ petitions were decided by this Court. The difference between this petition and the other petitions decided on 24.07.2024, is that in those cases, the notice issued under Section 148A(b) as well as the final order passed under Section 148A(d) and the notice issued under Section 148 of the Act were in the name of deceased person. It is this

fact which is sought to be highlighted by Mr. Aggarwal to state that the conclusion drawn by the Coordinate Bench of this Court on 21.07.2024 in the aforesaid cases has no bearing in so far as the outcome of this petition is concerned, inasmuch in this case as the final order followed by the notice having been passed/issued in the name of deceased/assessee through the legal heir, the action need to be sustained.

10. The submission is not appealing. This, according to us, when the initial notice itself was erroneous/defective, the proceedings pursuant thereto cannot be said to be valid.

11. The only outcome of this writ petition is that the notice issued under Section 148A(b), order under Section 148A(d) and the subsequent notice issued under Section 148 of the Act are liable to set aside. We order so, but making it clear that nothing precludes the respondents to initiate action in accordance with law, leaving all the pleas and contentions of the parties open to be decided by the Assessing Officer. Petition is disposed of.

V. KAMESWAR RAO, J

VINOD KUMAR, J

OCTOBER 15, 2025/*dd*