$~78

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

\+ W.P.(C) 7385/2024 & CM Appl No.30869/2024 (Stay)

NVENT INTERNATIONAL HOLDING S.A.R.L. .....Petitioner
Through: Mr. Paras S. Savla, Mr. S. S. Tomar and Mr. Harsh Shah, Advs.

versus

UNION OF INDIA & ORS. .....Respondents
Through: Mr. Puneet Rai SSC with Mr. Gibran Naushad, Mr. Rishabh Nangia, Mr. Ashvini Kumar, Advs.

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

O R D E R

% 22.05.2025

1. The petitioner has filed the present petition impugning a notice dated 30.03.2024 [**impugned notice**] issued under Section 148 of the Income Tax Act, 1961 [**the Act**] seeking to reopen the petitioner’s assessment for the Assessment Year [**AY**] 2020-21. It is the petitioner’s case that the Assessing Officer [**AO**] did not have any information which suggested that the petitioner’s income had escaped assessment. The petitioner is also correct in its submission that non-filing of the return would not constitute a valid ground for reopening the assessment, as the same would not be necessary under Section 115-A(5) of the Act.

2. In the aforesaid view, the petitioner challenged the impugned order

dated 30.03.2024 passed under Section 148A(d) of the Act on merits. However, it appears that the petitioner's response to the notice issued under Section 133(6) of the Act was incomplete and the necessary details sought by the AO were not provided.

3. In the present case, the notice issued under Section 148A(b) of the Act included a direction and contained information available with the AO, which, according to the AO, suggested the petitioner had escaped assessment. The relevant extract of the said direction is set out below:

"GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE DEPUTY COMMISSIONER OF INCOME TAX
CIRCLE INT. TAX. 2(2)(2)

To, **NVENT INTERNATIONAL HOLDING S.A.R.L** **26 MUHLENSTRASSE, SCHAFFHAUSEN SCHAFFHAUSEN 999999, FOREIGN Switzerland**	

PAN: AAGCN9992B	A.Y: 2020-21	Dated: 13/03/2024	DIN & Notice No: ITBA/AST/F/148A(SCN)/2023-24/1062533260(1)

Notice under clause (b) of section 148A of the Income-tax Act, 1961

Sir/Madam/M/s

Whereas I have information which suggests that income chargeable to tax for the Assessment Year **2020-21** has escaped assessment within the meaning of section 147 of the Income-tax Act, 1961. The details of the information/ enquiry conducted on which reliance is being placed, along with supporting documents, are enclosed with this notice.

2. You are required to show-cause as to why, in view of the details contained in enclosures mentioned in point number 1 above, a notice

under section 148 of the Income tax Act, 1961 should not be issued.
3. You may submit reply to this notice, along with supporting documents (if any) on the above mentioned issues on or before **26/03/2024** electronically at www.incometaxgov.in.

SHIREEN PRAKASH
Circle int. tax. 2(2)(2)

ANNEXURE

On perusal of records. It is seen that you have not filed your ITR of A.Y. 2021-21. However, as per information available with this office, it is noticed that during year under consideration, the assessee has entered into following transactions:

Sr. No.	Type of transaction	Source	Amount involved (in Rs.)
1	TDS Statement – Income by way of interest from specified company payable to anon-resident (Section 194LC)	NVENT ELECTRICAL PRODUCTS INDIA PRIVATE LIMITED	1,07,92,020
2	Purchase of debentures year for acquiring bonds or debentures issued by the company or institution	PENTAIR TECHNICAL PRODUCTS INDIA PRIVATE LIMITED	31,80,000

Despite having above financial transactions during the FY, you have not filed your return of income. Therefore, prima facie taxability on income received during the year remains unexplained.
A notice u/s 133(6) of the Income Tax Act, 1961 was issued on 29.01.2024 requiring compliance by 07.02.2024. However, no response has been received nor any adjustment sough in the matter."

4. It is clear from the above that the only information provided to the petitioner was that tax had been deducted under Section 194LC of the Act;

that the petitioner had not filed its return for the relevant assessment year; and that it did not respond to the notice under Section 133(6) of the Act, which was issued on 29.01.2024. The impugned notice under Section 148 of the Act is not sustainable for any of the aforesaid reasons.

5. First, in terms of Section 115A of the Act, the petitioner is not required to file its return and, therefore, the same would not present any ground for suggesting that the petitioner's income for the relevant assessment year has escaped assessment.

6. Second, the fact that tax had been deducted at source also does not suggest that the petitioner's income has escaped assessment. There is no dispute that the petitioner had subscribed to interest-bearing bonds and had received interest on which the tax was deducted.

7. Third, the claim that the petitioner failed to respond to the notice under Section 133(6) of the Act, which was issued on 29.01.2024, is plainly erroneous, as the petitioner did respond to the said notice and furnished its bank statements, income tax returns, as well as the brief note of the transactions along with documentation. There may be some gap in the information regarding the source of the funds used by the petitioner to subscribe to the bonds in question. Whilst, the AO was not precluded from taking recourse to other provisions of the Act to elicit the said information, the same could not be a ground for finding that it was a fit case to issue a notice under Section 148 of the Act. The information as available with the AO did not suggest that the petitioner's income had escaped assessment. Therefore, the notice issued under Section 148A(b) of the Act is unsustainable. Consequently, the order passed 30.03.2024 passed under Section 148A(d) of the Act as well as notice issued under Section 148 of the

Act are not sustainable and are, therefore, set aside. However, we clarify that this would not preclude the AO from issuing a fresh notice if any information is obtained, which suggests that the petitioner's income has escaped relevant assessment for the relevant AY. We also clarify that the AO is not precluded from making any enquiry necessary for seeking any information in accordance with law.

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

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 22, 2025/DR

Click here to check corrigendum, if any