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

% *Date of Decision : 21.05.2025*

\+ **W.P.(C) 6931/2025**

J AND G INTERNATIONAL .....Petitioner

Through: Mr. Nitin Kanwar, Ms. Parul Kanwar, Mr. Rajiv Kumar, Mr. Dushyant Nayak, Mr. Shivam Jain, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX & ANR. .....Respondent

Through: Mr. Gaurav Gupta, SSC, Mr. Shivendra Singh, Mr. Yojit Pareek, JSC.

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

VIBHU BAKHRU, J. (*ORAL*)

CM APPL. 31388/2025- EXEM

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 6931/2025 & CM APPL. 31387/2025-STAY

3. The Petitioner has filed the present petition, *inter alia,* praying as under:

> "1) Issue a writ of CERTIORARI or any other appropriate writ, order or direction for quashing the impugned notice u/s 148 dated 28.08.2024, Impugned Order u/s 148A(d) dated 28.08.2024 and impugned Show Cause Notice u/s 148A(b) dated 13.08.2024 of the Income Tax Act, 1961 in the petitioner's case for Assessment year 2018-19, being patently bad in law, without jurisdiction, violative of statutory principles of interpretation, and in violation of the provisions of the said income tax act, 1961 and the principles of

natural justice and other Consequential proceedings;
2) Issue a writ of Prohibition or any other appropriate writ, order or direction to prohibit the Respondent -1 or any other income Tax Authority to conduct/initiate any other Consequential Penalty proceedings, if any in furtherance of the impugned notice u/s 148 of the Income Tax Act, 1961;"

4. The petitioner has impugned a notice under Section 148A(b) dated 13.08.2024, as well as a notice under Section 148 dated 28.08.2024 and an order under section 148A(d) dated 28.08.2024, *inter alia,* on the ground that the Petitioner did not have verifiable information for reopening of the assessment. He also submits that no opportunity for being heard was afforded by the Assessing Officer **[AO]** at the stage of enquiry under Section 148A(a) of the Act. Learned counsel also relies upon the instructions dated 22.08.2022 issued by the Central Board of Direct Taxes **[CBDT]** and has drawn the attention of this Court to paragraph 3 of the said instructions, which reads as under:-

> 3). Further, it is re-emphasized that-i. Before initiating proceedings under Section 148/147 of the Act, any information available on data-base/portal of the Income Tax Department shall be verified before drawing any adverse inference against the taxpayers. It is not out of place to mention here that the information made available/data uploaded by the reporting entities may not be fully accurate due to inter alia, error of human nature technical nature, etc. Therefore, due verification may be carried out and opportunity of being heard be given to the taxpayer before initiating proceedings under Section 148/147 of the Act. ii. The supervisory authorities are hereby advised to keep an effective supervision SO as to ensure that all extant Instructions/Guidelines/Circulars/SOPs are duly followed by the Assessing Officers in their charge.

5. He submits that in the present case, the impugned notice under Section 148A(b) was issued on the basis of statement of one Sh. Shitij Malhotra who claimed that he had not engaged in any business activity but

has earned his income through issuing bogus bills of purchases and sales on entry basis. He also claimed that he had earned a nominal commission of 1% of the amount deposited/credit in his accounts. The learned counsel submits that copy of the statement was also not provided to the Petitioner therefore he was not afforded an opportunity to address the same.

6. It is seen that the impugned notice dated 13.08.2024 under Section 148A(b) was issued to the Petitioner, *inter alia,* informing the Petitioner that the AO had information in his possession that the Petitioner had entered into an unexplained transaction of ₹52,68,597/- with one Sh. Shitij Malhotra who was carrying on the business under the name and style of M/s Shri Gauri Shanker Enterprises (PAN- AMFPM4602B) during the financial year 2017-18, relevant to assessment year **[AY]** 2018-19. As noted above, Mr. Shitij Malhotra had recorded a statement that he was not carrying on any genuine activities but was engaged in providing entries on a commission of 1%. The Income Tax Authorities found that the Petitioner had shown purchases of ₹52,68,697/- from Mr. Shitij Malhotra. This information suggests that the Petitioner's income for AY 2018-19 was concealed to escape assessment.

7. The Petitioner was also provided with a copy of the STR enquiry report in the case of Mr. Shitij Malhotra.

8. The Petitioner had responded to the said notice and had furnished its accounts as well as statements of exports sales. However, it is noted that the Petitioner did not provide any documents regarding transportation of the material or any other material that would evidence movement of goods from Mr. Shitij Malhotra to the Petitioner. It is also important to note that the petitioner did not dispute that it had entered into a transaction of purchase of

goods from Mr. Shitij Malhotra.

9. In the aforesaid circumstances, the AO had come to a conclusion that it was a fit case for reopening of the assessment for AY 2018-19.

10. The learned counsel submits that the entire information is available only for AY 2016-17, and therefore the same is not relevant to AY 2018-19. However, we do not find any merit in the said contention. The STR Report is placed on record and it also notes that in FY 2017-18 "similar fact pattern exist". Therefore we find no merit in the said contention.

11. It is also the Petitioner's contention that the AO did not have any evidence in the form of books of accounts, assets or documents in his possession to issue the impugned notice, is also unpersuasive. There is no dispute that an entry for purchase of goods amount to ₹52,68,697/- regarding purchase made from Mr. Shitij Malhotra exist in the books of accounts of the petitioner. The entire exercise of initiation of reassessment has triggered by the finding entries in the books of accounts that have been admitted by Sh. Shitij Malhotra to be bogus.

12. In view of the above, the present petition is without merit and is accordingly dismissed.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 21, 2025
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Click here to check corrigendum, if any