$~63

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

\+ W.P.(C) 11648/2025

KLJ RESOURCES LTD. .....Petitioner

Through: Mr. Gauitam Jain, Mr. Shaantanu Jain and Mr. Manish Yadav, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE 31, DELHI & ANR. .....Respondent

Through: Mr. Gaurav Gupta, SSC, Mr. Shivendra Singh, Mr. Yojit Pareek, JSC and Mr. Surya Jindal, Adv.
Ms Babita Saini (SPC) for UOI.

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

O R D E R

% 05.08.2025

CM APPL. 47649/2025 (Exemption)

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 11648/2025, CM APPL. 47648/2025 (Stay)

3. This petition has been filed with the following prayers :

> *a) issue a writ of certiorari or writ of mandamus or appropriate writ, direction or order for quashing and setting aside the impugned notice dated 31.08.2024 u/s 148 of the Act issued by Respondent No. 1 in the petitioner's case for A.Y. 2015-16; and*
> *b) issue a writ of certiorari or writ of mandamus or appropriate writ, direction, or order for quashing the proceedings initiated vide the impugned notice dated 31.08.2024 u/s 148 of the Act; and*
> *c) issue a writ of certiorari or writ of mandamus or appropriate writ, direction, or order to declare Explanation 2 to Section 148 of the Act as being violative of Article 14 of the Constitution of India to the extent to which it treats the search person and nonsearch person on equal footing; and*
> *d) issue a writ of certiorari or writ of mandamus or appropriate writ, direction, or order to quash the satisfaction note dated*

27.08.2024 recorded in the case of the Petitioner by the Respondent No. 1; and

e) grant an ad-interim ex-parte relief in terms of above prayers, inter alia, staying all proceedings/ actions subsequent/ consequent to the impugned notice dated 31.08.2024 issued under section 148 of the Act for AY 2015-16, during the pendency of the present petition; and/or."

4. This writ petition pertains to the Assessment Year 2015-2016.

5. The learned counsel for petitioner submits that the issue is covered in favour of the assessee/petitioner in terms of the judgment rendered by this court in ***KAD Housing Private Limited v. Deputy Commissioner of Income Tax Central Circle-6, Delhi : Neutral Citation : 2024:DHC:8214-DB*** wherein this court held in paragraph 9 onwards as under :

> *"9. As noted above, the short question to be considered by this Court is whether the impugned notice has been issued beyond the period of limitation as stipulated under Section 149(1)(b) of the Act. The said issue is squarely covered by the earlier decisions of the Co-ordinate Bench of this Court in Dinesh Jindal v. Assistant Commissioner of Income Tax, Central Circle 20, Delhi & Others1 as well as in The Pr. Commissioner of Income Tax - Central-1 v. Ojjus Medicare Pvt. Limited[2].*
>
> *10. In Dinesh Jindal v. Assistant Commissioner of Income Tax, Central Circle 20, Delhi & Others (supra), the Co-ordinate Bench of this Court has observed as under:-*
>
> > *"8. Undisputedly, and in terms of Section 153C(3) of the Act, any search if conducted after 01 April 2021, would cease to be regulated by that provision. Sub-section (3), in that sense, embodies a sunset clause insofar as the applicability of Section 153C is concerned. The First Proviso to Section 149(1), however, bids us to go back in a point of time, and to examine whether a reopening would sustain bearing in mind the timeframes as they stood embodied in Section 149(1)(b) or Section 153A and 153C, as the case may be. The First Proviso essentially requires us to undertake that consideration bearing in mind the timeframes which stood specified in Sections 149, 153A and 153C as they stood prior to the*

commencement of Finance Act, 2021.

9. Thus, an action of reassessment which comes to be initiated in relation to a search undertaken on or after 01 April 2021 would have to meet the foundational tests as specified in the First Proviso to Section 149(1). A reassessment action would thus have to not only satisfy the time frames constructed in terms of Section 149, but in a relevant case and which is concerned with a search, also those which would be applicable by virtue of the provisions of Section 153A and 153C.

10. Undisputedly, and if the validity of the reassessment were to be tested on the anvil of Section 153C, the petitioner would be entitled to succeed for the following reasons. It is an undisputed fact that the proceedings under Section 148 commenced on the basis of the impugned notice dated 30 March 2023. This date would be of seminal importance since the period of six AYs' or the "relevant assessment year" would have to be reckoned from the date when action was initiated to reopen the assessment pertaining to AY 2013-14."

11. In The Pr. Commissioner of Income Tax-Central-1 v. Ojjus Medicare Pvt. Limited (supra), the Court also explained the manner in which the period of six or ten years is required to be reckoned in respect of reopening of the assessment for a period prior to six years and/or before the expiry of ten years from the relevant assessment years as contemplated under Section 153C of the Act. The court held that the period of ten years is required to be reckoned from the end of the assessment year relevant to the year in which the notice under Section 148 of the Act is issued.

12. The relevant extract of the decision in The Pr. Commissioner of Income Tax -Central-1 v. Ojjus Medicare Pvt. Limited (supra) is set out below:-

"D. The First Proviso to Section 153C introduces a legal fiction on the basis of which the commencement date for computation of the six year or the ten year block is deemed to be the date of receipt of books of accounts by the jurisdictional AO. The identification of the starting block for the purposes of computation of the six and the ten year period is governed by the First Proviso to Section 153C, which significantly shifts the reference point spoken of in Section 153A(1), while defining the point from which the period of the "relevant assessment year" is to be calculated, to

the date of receipt of the books of accounts, documents or assets seized by the jurisdictional AO of the non searched person. The shift of the relevant date in the case of a non-searched person being regulated by the First Proviso of Section 153C(1) is an issue which is no longer res integra and stands authoritatively settled by virtue of the decisions of this Court in SSP Aviation and RRJ Securities as well as the decision of the Supreme Court in Jasjit Singh. The aforesaid legal position also stood reiterated by the Supreme Court in Vikram Sujitkumar Bhatia. The submission of the respondents, therefore, that the block periods would have to be reckoned with reference to the date of search can neither be countenanced nor accepted.

E. The reckoning of the six AYs' would require one to firstly identify the FY in which the search was undertaken and which would lead to the ascertainment of the AY relevant to the previous year of search. The block of six AYs' would consequently be those which immediately precede the AY relevant to the year of search. In the case of a search assessment undertaken in terms of Section 153C, the solitary distinction would be that the previous year of search would stand substituted by the date or the year in which the books of accounts or documents and assets seized are handed over to the jurisdictional AO as opposed to the year of search which constitutes the basis for an assessment under Section 153A.

F. While the identification and computation of the six AYs' hinges upon the phrase "immediately preceding the assessment year relevant to the previous year" of search, the ten year period would have to be reckoned from the 31st day of March of the AY relevant to the year of search. This, since undisputedly, Explanation 1 of Section 153A requires us to reckon it "from the end of theassessment year". This distinction would have to necessarily be acknowledged in light of the statute having consciously adopted the phraseology "immediately preceding" when it be in relation to the six year period and employing the expression "from the end of the assessment year" while speaking of the ten year block."

6. Learned counsel for the petitioner has drawn our attention to

pages 22, 23 of the petition to contend that from the chart reproduced on these pages, it is clear that the impugned notice dated 31.8.2024 shall be barred by limitation. We reproduce the chart as under :

Analysis of time-period to issue reassessment notice. Date of impugned notice under section 148 is 31.08.2024 This chart is prepared in light of the first proviso of Section 149 of the Act as amended by Finance Act, 2021	
Relevant Assessment Year for initiating proceedings under Section 148 of the Act	Without prejudice, computation of 10 years in light of first proviso to Section 149
2025-26	1
2024-25	2
2023-24	3
2022-23	4
2021-22	5
2020-21	6
2019-20	7
2018-19	8
2017-18	9
2016-17	10
2015-16	**11** Beyond terminal point of 10 years)

7. Mr. Gaurav Gupta, learned counsel appearing for the respondent/Revenue do not dispute the applicability of the judgment in the case of ***KAD Housing Private Limited (supra).***

8. It is clear that the on the basis of the judgments referred to by this court in ***KAD Housing Private Limited*** (supra), ***Dinesh Jindal v. Assistant Commissioner of Income Tax, Central Circle 20, Delhi & Ors.: Neutral Citation No.:2024:DHC:4554-DB*** and also ***Principal***

Commissioner of Income Tax- Central-1 v. Ojjus Medicare Pvt. Ltd.: Neutral Citation No.:2024:DHC:2629-DB, indicate the notice being dated 31.08.2024, in respect of Assessment Year 2015-2016, the same falls beyond the period of six years as stipulated under Section 149 read with Section 153C of the Act.

9. In view of the above, the impugned notice dated 31.8.2024 is set aside. Consequently the respondents are restrained from proceeding with reassessment proceedings for the Assessment Year 2015-2016. The petition is allowed on the aforesaid terms. The pending application stands disposed of.

V. KAMESWAR RAO, J

VINOD KUMAR, J

AUGUST 05, 2025/dd