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

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Date of Decision : 19.03.2025

+ **W.P.(C) 12227/2024 and CM APPL. 50865/2024**

AMEETA GOYAL

.....Petitioner

Through: Mr. Vineet Garg, Advocate.

versus

THE ASSESSMENT UNIT OF INCOME TAX & ORS.

.....Respondents

Through: Mr. Ruchir Bhatia, SSC, Mr. Anant Maan, JSC and Mr. Abhishek Anand, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

VIBHU BAKHRU, J. (ORAL)

1. The petitioner has filed the present petition, *inter alia*, praying as under:

“(I) writ in the nature of mandamus/ certiorari or any other appropriate writ, order or direction for quashing of the show cause notice dt. 20.08.2024 and accepting the returned income filed on 03.05.2019 in response to notice issued u/s 148 dt. 20.03.2019 for assessment year [‘AY’] 2013-14 in terms of proceedings being time barred as per section 153(2) of the act;

(II) writ of certiorari or writ, order or direction in the nature of mandamus, or any other appropriate writ, order or direction



under Article 226/227 of the Constitution of India, directing the respondents to give credit of taxes paid for AY 2012-13 and AY 2013-14 while filing Income Tax Settlement Application in terms of section 245HAA and issue refund after adjusting the same against any established tax liability for the said years.”

2. It is the petitioner’s case that the reassessment proceedings initiated in respect of the Assessment Year (AY) 2013-2014 are barred by limitation.
3. The petitioner had filed the original return for AY 2013-14 on 27.07.2013 declaring her total income of Rs. 10,46,563/-. Thereafter, on 15.12.2016, the petitioner decided to file an application before the Income Tax Settlement Commission [**Settlement Commission**] disclosing an additional income earned during AYs 2012-13 to 2016-17. The petitioner claims that he also paid an additional amount of ₹77,35,000/- as taxes for AY 2013-14. Whilst the petitioner’s applications for settlement in respect of AYs 2015-16 and 2016-17 were accepted. Although, her applications in respect of AYs 2012-13 and 2013-14 were rejected by the Settlement Commission. The said order was subsequently challenged by the petitioner along with his family members, who had also filed similar applications, by filing a writ petition being W.P.(C) 3928/2017 captioned ***Sushil Kumar Goyal & Ors. v. Principal Commissioner of Income Tax-1 & Ors.***
4. In the meanwhile, the Assessing Officer [AO], issued a notice dated 20.03.2019 under Section 148 of the Income Tax Act, 1961 [**the Act**] in respect of AY 2013-14. The petitioner filed his return of income in response to the said notice issued under Section 148 of the Act. The petitioner also filed an application being CM No. 27436/2019 in writ petition [W.P.(C) 3928/2017], *inter alia*, seeking to interdict the proceedings commenced



pursuant to the notice dated 20.03.2019. However, that application was withdrawn on 31.05.2019 with liberty to file a substantive petition to challenge the initiation of the reassessment proceedings.

5. The petitioner sought reasons for initiation of reassessment proceedings, which were furnished to the petitioner on 29.09.2019. Thereafter, the petitioner filed a writ petition being W.P.(C) 13436/2019 impugning the notice dated 20.03.2019 issued under Section 148 of the Act and the proceedings initiated pursuant thereto. In the said proceedings, this court passed an *ad interim* order in the following terms:

“Till the next date of hearing, the proceedings under Section 148 of the Income Tax Act shall remain stayed. In case, the order has been passed, the same shall be not given effect to.”

6. Thereafter, the AO issued another notice under Section 148 of the Act for AY 2013-14. This was followed by further notices issued under Section 142(1) of the Act. The petitioner resisted the said notices, *inter alia*, on the ground that the proceedings had been interdicted by this court in terms of the order dated 20.12.2019.

7. Notwithstanding the same, the AO also issued notice dated 23.05.2022 under Section 148A(b) of the Act in view of the decision rendered by the Supreme Court in ***Union of India v. Ashish Agarwal: (2023) 1 SCC 617***. The petitioner responded to this notice once again pointing out that the reassessment proceedings in respect of AY 2013-14 had been interdicted by this court by an order dated 20.12.2019 passed in WP(C) 13436/2019 which was extended from time to time. In view of the response submitted by the petitioner, the learned AO passed an order under Section



148A(d) of the Act keeping the said proceedings in abeyance.

8. On 18.05.2023, this court dismissed the writ petition being WP(C) 3928/2017. Thus, the petitioner's challenge to the rejection of her application for settlement before the Settlement Commission was closed. In view of the above, the petitioner sought dismissal of her writ petition being WP(C) 13436/2019 – which was a substantive challenge to the notice issued under Section 148 of the Act – as the same was premised on the basis that the petitioner was entitled maintain the application before the Settlement Commission. In view of the above, this court passed the following order on 13.12.2023.

“1. The learned counsel appearing for the petitioners submits that the present petitions have become infructuous in the light of the decisions in *Sushil Kumar Goyal & Ors. v. Principal Commissioner of Income Tax-1 & Ors.*: Neutral Citation 2023:DHC:3494-DB and *Bishan Das Goyal HUF v. The Pr. Commissioner of Income Tax- 14*: Neutral Citation 2023:DHC:3495-DB. He prays that the petitions be dismissed.

2. In view of the above, the present petitions and the applications are dismissed as prayed.”

9. In view of the aforesaid order, the AO was no longer interdicted from completing the reassessment proceedings. However, notwithstanding that there were no order interdicting the AO from proceeding further and concluding the assessment, the same was not concluded. According to the petitioner, the time for completing the assessment has since lapsed. Apprehending that the AO would continue with the reassessment proceedings and pass an assessment order, the petitioner has filed the present petition.



10. Mr Bhatia, learned counsel appearing for the Revenue has contested the said petition. He submits that the time for passing an order pursuant to the notice dated 20.03.2019 issued under Section 148 of the Act has not expired by virtue of Section 153(6) of the Act.

11. In view of the above, the only controversy that is required to be addressed is whether the proviso to Section 153(2) is applicable or whether the time for completing the assessment is a period of 12 months by virtue of Section 153(2) of the Act, as contended on behalf of the Revenue. The relevant extracts of Section 153 of the Act are set out below:

“153. Time limit for completion of assessment, reassessment and recomputation. —

(2) No order of assessment, reassessment or recomputation shall be made under section 147 after the expiry of nine months from the end of the financial year in which the notice under section 148 was served:

Provided that where the notice under section 148 is served on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words “nine months”, the words “twelve months” had been substituted.

(6) Nothing contained in sub-sections (1) and (2) shall apply to the following classes of assessments, reassessments and recomputation which may, subject to the provisions of sub-sections (3) and (5), be completed—

- (i) where the assessment, reassessment or recomputation is made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 250, section 254, section 260, section 262, section 263, or section 264 or in an order



of any court in a proceeding otherwise than by way of appeal or reference under this Act, on or before the expiry of twelve months from the end of the month in which such order is received or passed by the Principal Commissioner or Commissioner, as the case may be; or

- (ii) where, in the case of a firm, an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147, on or before the expiry of twelve months from the end of the month in which the assessment order in the case of the firm is passed.

Explanation 1.—For the purposes of this section, in computing the period of limitation—

- (ii) the period during which the assessment proceedings is stayed by an order or injunction of any court; or

Provided that where immediately after the exclusion of the aforesaid period, the period of limitation referred to in sub-sections (1), (1A), (2), (3) and sub-section (8) available to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.”

12. It is at once clear that the provisions of Section 153(6) of the Act have no application in the facts of the present case. There is no finding rendered or direction issued by any court, as contemplated under the said Section. By virtue of the order dated 13.12.2023, the petitioner had withdrawn his writ



petition since the challenge laid to the rejection of the application under Section 245C of the Act before the Settlement Commission, was rejected. The petitioner's challenge to the reassessment notice under Section 148 of the Act dated 20.03.2019 was raised in the context of his pending challenge to the rejection of the petitioner's application under Section 245C of the Act. This court had interdicted the AO from continuing with the said proceedings, however, with the dismissal of the writ petition filed by the petitioner on 13.12.2023, the AO was no longer impeded to continue the proceedings. However, neither any positive directions issued by this court nor any findings rendered on the basis of which the AO was to conclude the proceedings. Thus, the provisions of Section 153(6) of the Act are wholly inapplicable and the Revenue's contention in this regard cannot be sustained.

13. In terms of the proviso to Explanation I to Section 153 of the Act, the time-period available for completion of the assessment is less than sixty days after excluding the periods as referred to under Explanation I, a period of sixty days would be available to complete the assessment. Thus, AO would have sixty days to complete the proceedings. In the present case, the interim order, which interdicted the AO from proceeding with the reassessment proceedings in respect of AY 2013-14 was passed on 20.12.2019. The said proceedings were otherwise required to be concluded on 31.12.2019. Thus, the time-period available to the AO was less than sixty days. Accordingly, the proviso to Explanation 1 to Section 153 of the Act is applicable. Thus, in terms of the said proviso, the AO is required to complete the proceedings within sixty days of the interim order being



vacated. The same was vacated on 13.12.2023. Therefore, the said period of sixty days expired on 11.02.2024.

14. Notwithstanding that the time for passing an assessment order had expired, the faceless assessment unit continued to issue notices under Section 142(1) of the Act. The petitioner objected to the said notices on the ground that further proceedings were barred by limitation but the same was rejected by a communication dated 21.06.2024.

15. We find merit in the contention that the time-period for concluding the assessment pursuant to the notice dated 20.03.2019 issued under Section 148 of the Act in respect of AY 2013-14 has since expired. Accordingly, the reassessment proceedings are required to be terminated.

16. Insofar as the refund of the tax as paid is concerned, the petitioner is not precluded from making an appropriate application for claiming the refund. Needless to state that if any such application is made, it will be considered in accordance with law. All rights and contentions of the parties in this regard are reserved.

17. The petition is allowed in the aforesaid terms. Pending application shall also stand disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

MARCH 19, 2025/tr

Click here to check corrigendum, if any