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

\+ W.P.(C) 12681/2024 and CM APPL. 52833/2024

IFTIKHAR AHMED .....Petitioner

Through: Mr Sumit Lalchandani, Advocate.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE 4, NEW DELHI & ANR. .....Respondents

Through: Mr Sunil Agarwal, SSC with Mr Shivansh B. Pandya, Mr Viplav Acharya and Ms Priya Sarkar, JSCs.

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

O R D E R

% 05.05.2025

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

> "**A.** Issue any appropriate writ and/or order and/or directions to declare Explanation 2 to the Section 148 of the Act as being violative of Article 14 of the Constitution of India to the extent to which it treats cases where incriminating material is found and cases where no incriminating material is found on equal footing;
>
> **B.** Issue a writ of and/or order and or directions in the nature of certiorari or any other appropriate writ, order or direction quashing impugned notice dated 31.03.2024 issued under Section 148 of the Act by the Respondent and the proceedings initiated pursuant thereto;
>
> **C.** Issue a writ of and/or order and/or direction in the nature of Prohibition commanding Respondent to forebear from giving effect to and/or taking any step whatsoever pursuant to and/or in furtherance of the said purported notice under Section 148 of the Act and/or in any proceedings initiated thereunder for the AY 2013-14, and grant stay on the assessment proceedings."

2. The learned counsel for the petitioner has confined the present petition to assailing the notice dated 31.03.2024 [**Impugned notice**] issued under Section 148 of the Income Tax Act, 1961 [**the Act**] on the ground that the proceedings have been initiated beyond the period of limitation.

3. The petitioner had filed its return of income for Assessment Year [**AY**] 2013-14 on 27.07.2013. On 20.07.2022, a search was conducted under Section 132 of the Act in respect of entities relating to the SMC Group, including the petitioner. Pursuant to the said search, the Assessing Officer [**AO**] issued the impugned notice in respect of AY 2013-14.

4. Concededly, the period of limitation during which a notice under Section 153A of the Act could be issued has expired. Consequently, by virtue of the first proviso to Section 149(1) of the Act, no notice under Section 148 of the Act could be issued. The question as to the computation of the period of limitation for issuing a notice under Section 153A of the Act is squarely covered by the decision of this court in ***Principal Commissioner of Income-tax (Central-1) v. Ojjus Medicare (P.) Ltd.: [2024] 161 taxmann.com 160 (Delhi)***. The court had held that the period of ten years in terms of the Explanation 1 to Section 153A(1) of the Act is required to be computed from the end of the assessment year relevant to the financial year in which a search was conducted. A tabular statement setting out the period of computation of ten years that would be covered by virtue of the Explanation 1 to Section 153A of the Act is set out below:

Date of Search – 20.07.2022 **This chart is prepared in light of first proviso to Section 149 of the Act read with Section 153A(1)(b) and Explanation 1 to Section 153A(1) of the Act**

Relevant Assessment Year for initiating proceedings under Section 153A of the Act	**Computation of 06 years**	**Computation of 10 years**
2023-24	-	1
2022-23	1	2
2021-22	2	3
2020-21	3	4
2019-20	4	5
2018-19	5	6
2017-18	6	7
2016-17		8
2015-16		9
2014-15		10
Barred by time limitation		
2013-14		11 (beyond terminal point of 10 years)

5. In view of the above, the present petition is allowed and the impugned notice as well as all proceedings initiated pursuant thereto are set aside. Pending application is also disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 5, 2025/tr

Click here to check corrigendum, if any