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

\+ W.P.(C) 13069/2024, CM APPL. 54532/2024

GAGAN PREET SINGH

.....Petitioner

Through: Dr. Kapil Goel, Adv.

versus

INCOME TAX OFFICER WARD 44(6) NEW DELHI

.....Respondent

Through: Mr. Sunil Agarwal, SSC, Mr. Viplav Acharya, Ms. Priya Sarkar, JSCs and Mr. Utkarsh Tiwar, Adv.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE ANISH DAYAL

O R D E R

% 26.08.2025

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

A. Issue of a writ of certiorari, mandamus, prohibition or any other writ and/or order and or directions quashing the impugned reopening proceedings initiated vide notice u/s 148 (and order passed u/s 148A(d) dated 31.08.2024) by respondent is in violation of section 151A and CBDT notification dated 29.03.2022

B. Issue of a writ of certiorari, mandamus, prohibition or any other writ and/or order and or directions quashing the impugned reopening proceedings initiated vide notice u/s 148 (and order passed u/s 148A(d) dated 31.08.2024) by respondent is based on clear variation between SCN u/s 148A(b) dated 15.08.2024 and final order u/s 148A(d) dated 31.08.2024 and impugned SCN is based on wrong and incorrect facts and reopening is merely based on "borrowed satisfaction"

C. Issue of a writ of certiorari, mandamus, prohibition or any other writ and/or order and or directions quashing the impugned reopening proceedings initiated vide notice u/s

148; and order passed u/s 148A(d) dated 31.08.2024 by respondent being passed in arbitrary manner without application of mind and is in total violation of jurisdictional conditions stipulated under provisions of 1961 Act (specially sec 148 and sec 148A of the 1961

D. Issue of a writ of certiorari, mandamus, prohibition or any other writ and/or order and or directions quashing the impugned reopening proceedings initiated vide notice u/s 148; and order passed u/s 148A(d) dated 31.08.2024 by respondent being made in violation of CBDT guidelines.

E. Issue of a writ of certiorari, mandamus, prohibition or any other writ and/or order and or directions quashing the impugned proceedings u/s 148/148A made on basis of invalid "mechanical" sanction u/s 151 of 1961 Act of CCIT 3 Delhi.

F. Pass any other order(s) as this Hon'ble Court may deem to be fit and more appropriate may please give order to grant interim relief to the petitioner by staying the operation of impugned order passed u/s 148A(d)/notice u/s 148 by respondent, which suffers from series of patent and manifest jurisdictional errors as pointed above;

2. One of the ground of challenge is that the Assessing Officer at page 58 as in paragraphs 7 of the impugned order dated 31.08.2024, stated as under:

> *"7. However, no reply has been received from the assessee or its authorized representative till date leading to the belief that the assessee has nothing to submit with regard to credible information received showing escapement of income for the assessment year under consideration as elaborated in the Show Cause Notice"*

3. According to Mr. Goel, the conclusion drawn the AO in passing an order under Section 148A(d) by stating that no reply has been filed by the assessee to the show cause notice under Section 148 A(b) is incorrect as the assessee has filed a reply on 26.08.2024 in physical form as well as online. Hence, to that extent, the finding of AO is perverse and as such impugned

order passed under Section 148A(d) dated 31.08.2024, so also the notice issued under Section 148 also dated 31.08.2024 need to be set aside.

4. Mr. Agarwal do not dispute the conclusion drawn by AO in paragraph 7 of the order dated 31.8.2024 at page 58.

5. If that be so, we set aside the order dated 31.08.2024 passed under Section 148A(d) so also the notice passed under Section 148 and remand the matter back to the AO by directing him to consider the reply filed by the petitioner on 26.08.2024 and pass a fresh order in accordance with law.

6. The petition is disposed of.

V. KAMESWAR RAO, J

ANISH DAYAL, J

AUGUST 26, 2025

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