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

\+ **W.P.(C) 13415/2025**

INDERPAL SINGH SAYAN

.....Petitioner

Through: Ms Prem Lata Bansal, Sr Advocate with Mr Shivang Bansal, Advocate.

versus

ASSESSMENT UNIT INCOME TAX DEPARTMENT & ORS.

.....Respondent

Through: Mr. Gaurav Gupta, SSC, Mr. Shivendra Singh, Mr. Yojit Pareek, JSCs, Mr. Surya Jindal, Advocate.

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

<u>O R D E R</u>

% 02.09.2025

<u>CM APPL. 55008/2025(Exemption)</u>

1. Exemption is allowed, subject to all just exceptions.

2. The application stands disposed of.

<u>W.P.(C) 13415/2025 & CM APPL. 55007/2025 (Stay)</u>

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

> *"a) issue a writ of certiorari or any other writ, order or direction in the nature of certiorari*
>
> *i) quashing the re-assessment proceeding initiated by R-2 by way of notice-dated 17.03.2022 issued u/s 148A(b) of the Act*
>
> *ii) order-dated 26.07.2023 passed by R-2 u/s 148A(d) of the Act and*
>
> *iii) notice-dated 26.07.2023 issued by R-2 u/s 148 of the Act,*
>
> *b) issue a writ of certiorari or any other writ, order or direction in the nature of certiorari*

quashing the proceeding conducted by R-1 u/s 148 of the Act ,
c) issue a writ of certiorari or any other writ, order or direction in the nature of certiorari quashing the assessment order dated 18.03.2025 passed in pursuance to such illegal proceeding by R-1 u/s 147 r/w section 1448 of the Act for AY 2018-19,
d) writ of prohibition restraining the respondents from recovering the demand raised in pursuance to such proceeding and"

4. In effect, the petitioner is challenging the order dated 26.07.2023 passed under Section 148A(d) of the Income Tax Act, 1961 (the Act); notice dated 17.03.2022 under Section 148 A(b) of the Act and another notice dated 26.07.2023 under Section 148 of the Act.

5. We have been informed that pursuant to the notice dated 26.07.2023 issued under Section 148 of the Act, an assessment order dated 18.03.2025 has been passed.

6. We are also informed by Ms Prem Lata Bansal, learned Senior Counsel appearing for the petitioner that the petitioner has filed appeal before the Commissioner of Income Tax (Appeals) [CIT(A)] along with an application for stay before the Assessing Officer. According to her, the only reason to invoke the writ jurisdiction of this Court is that before passing order under Section 148A(d) and issuance of notice under Section 148, the respondent no.2 has taken approval of the Principal Commissioner of Income Tax but as 3 years have elapsed from the end of the AY 2018-19, the same required approval of the Principal Chief Commissioner of Income Tax as such the proceedings are without jurisdiction. She concedes to the fact that the additional grounds filed by the petitioner in the appeal before

the CIT(A), are the ones which have been urged by her in this petition..

7. If that be so, we are of the view that once the petitioner has invoked the jurisdiction of the CIT(A) with an application for stay before the Assessing Officer, urging the same grounds, as sought to be urged before this Court, appropriate shall be for the petitioner to pursue the remedy invoked before the CIT(A). Insofar as, the judgments relied upon by Ms Bansal are concerned, in the case of ***Mahindra and Mahindra Ltd. v. Assistant Commissioner of Income-tax,*** **W.P. (L.) No. 33793/2024**, the Bombay High Court noting the fact that an appeal has been filed against the Assessment Order, held the petitioner can still file the writ petition and passed order of stay till proceedings before the Appellate Authority are decided. The said case is distinguishable, inasmuch as, in the present case, apart from filing the appeal before the CIT(A), the petitioner herein has also filed an application for stay before the Assessing Officer. The petitioner has urged, similar grounds as sought to be urged before us. Appropriate is for the petitioner to press the stay application before Assessing Officer.

8. Insofar as, the judgment in the case of ***Red Chilli International Sales v. Income-tax Officer,*** decided by the Supreme Court being [2023] 146 taxmann.com 224(SC) is concerned, therein the challenge was made to an order passed by the High Court rejecting the writ petition on the ground of alternative remedy.

9. Suffice to state, as the petitioner has already availed the remedy of appeal before the CIT(A) and also filed an application for stay before the Assessing Officer. Even the appeal before the CIT(A) includes the grounds as have been urged in this petition.

10. In view of above, the petition is closed. The pending application is

also disposed of having become infructuous.

V. KAMESWAR RAO, J

VINOD KUMAR, J

SEPTEMBER 02, 2025

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