$~57

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

\+ W.P.(C) 13419/2025

BRAHMI FABRICS PVT LTD .....Petitioner

Through: Mr. Arnav Kumar and Mr. Manya Gupta, Advs.

versus

INCOME TAX OFFICER CIRCLE 4(2) DELHI & ANR. .....Respondents

Through: Mr. Vipul Agrawal, SSC, Ms. Sakshi Sehrawal and Mr. Akshat Singh, JSCs and Mr. Gaoraang Ranjan and Ms. Harshita Kotru, Advs.

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

O R D E R

% **02.09.2025**

CM APPL. 55015/2025 and CM APPL. 55016/2025

1. Exemptions allowed, subject to all just exceptions.

2. The applications are disposed of.

W.P.(C) 13419/2025 and CM APPL. 55014/2025

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

> *"a) To issue a writ in the nature of certiorari/mandamus or any other appropriate writ, order or direction for quashing: (i) Show-Cause Notice dated 17.08.2024 under Section 148A(b) of the Act, (ii) Order dated 31.08.2024 passed by the Respondent under Section 148A(d) of the Act, (iii) Notice under Section 148 dated 31.08.2024 and all subsequent*

proceedings arising therefrom"

4. The submission of learned counsel for the petitioner is primarily that the present matter relates to Assessment Year 2016-17 for which the return has been filed on 13.11.2017. It is after expiry of almost seven years, an impugned show cause notice dated 17.08.2024 was issued under Section 148A(b) of the Income Tax Act, 1961 (the Act) alleging that the respondents have information suggesting that income chargeable to tax for the AY 2016-17 has escaped assessment resulting in initiation of re-assessment proceedings against the petitioner. His submission is that the issue is covered by the judgments of this Court and the Supreme Court in case of ***Manju Somani v. Income Tax Officer Ward-70(1) & Ors: Neutral Citation: 2024:DHC:5411-DB*** and ***Union of India v. Rajeev Bansal: 2024 SCC OnLine SC 2693*** wherein this Court held that re-assessment for the AY 2016-17 is time barred beyond 31.03.2023 in terms of first proviso to Section 149(1) of the Act.

5. The learned counsel for the petitioner relies upon ***Nikhil Nanda vs. Assistant Commissioner of Income-Tax, Central Circle 31, Delhi,*** wherein this Court on identical issue, relatable to AY 2016-17, by referring to the judgment in the case of ***Manju Somani v. Income Tax Officer*** (Supra) and ***Union of India v. Rajeev Bansal***(Supra) had set aside the notice issued under Section 148 of the Act. The relevant part of the judgment reads as :

> *"1. The petitioner has filed the present petition, inter alia, impugning an order dated 30.08.2024 (hereafter the impugned order) issued under Section 148A(d) of the Income Tax Act, 1961 (hereafter the Act) for the assessment year (AY) 2016-17 as well as the notice dated 30.08.2024 (hereafter the impugned notice) issued under Section 148 of the Act. 2. The petitioner contends that the impugned notice was issued beyond the*

period of limitation as prescribed in terms of the first proviso to Section 149(1) of the Act. 3. The learned counsel appearing for the petitioner submits that the issue stands covered by the decision of this Court in Manju Somani v. Income Tax Officer Ward-70(1) & Ors: Neutral Citation: 2024:DHC:5411-DB.

4. It is also relevant to note that the Supreme Court in a recent decision in Union of India & Others v. Rajeev Bansal: 2024 SCC OnLine SC 2693 has observed as under:

> *46. The ingredients of the proviso could be broken down for analysis as follows: (i) no notice under Section 148 of the new regime can be issued at any time for an assessment year beginning on or before 1 April 2021; (ii) if it is barred at the time when the notice is sought to be issued because of the "time limits specified under the provisions of" 149(1)(b) of the old regime. Thus, a notice could be issued under Section 148 of the new regime for assessment year 2021-2022 and before only if the time limit for issuance of such notice continued to exist under Section 149(1)(b) of the old regime.*
>
> *** *** ***
>
> *49. The first proviso to Section 149(1)(b) requires the determination of whether the time limit prescribed under Section 149(1)(b) of the old regime continues to exist for the assessment year 2021-2022 and before. Resultantly, a notice under Section 148 of the new regime cannot be issued if the period of six years from the end of the relevant assessment year has expired at the time of issuance of the notice. This also ensures that the new time limit of ten years prescribed under Section 149(1)(b) of the new regime applies prospectively. For example, for the assessment year 2012-2013, the ten year period would have expired on 31 March 2023, while the six year period expired on 31 March 2019. Without the proviso to Section 149(1)(b) of the new regime, the Revenue could have had the power to reopen assessments for the year 2012-2013 if the escaped assessment amounted to Rupees fifty lakhs or more. The proviso limits the retrospective operation of Section 149(1)(b) to protect*

the interests of the assesses.

5. In view of the above, the present petition is allowed. The impugned order as well as the impugned notice issued under Section 148 of the Act in respect of the AY 2016-17, are set aside.

6. Pending applications also stand disposed of.”

6. Mr. Vipul Aggarwal does not dispute the applicability of the above judgments. We accordingly set aside the order dated 31.08.2024 and also the notice dated 31.08.2024 passed under Section 148 respectively. Any proceedings initiated subsequent thereto are also set aside.

7. Any subsequent proceedings arising therefrom are also set aside.

8. The petition and pending application are dismissed.

V. KAMESWAR RAO, J

VINOD KUMAR, J

SEPTEMBER 2, 2025

ss