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

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Date of Decision : 23.09.2025

+ **W.P.(C) 13880/2024 & CM APPL. 58088/2024(Stay)**

SURENDER KUMAR WADHWA

.....Petitioner

Through: Ms Kavita Jha, Sr Advocate with Ms
Aabgina Chishti and Mr Ujwal Ghai,
Advocates.

versus

PRINCIPAL COMMISSIONER OF
INCOME TAX-18 & ANR.

.....Respondents

Through: Mr. Debesh Panda, SSC Mr.
Vikramaditya Singh, Ms. Zehra Khan,
JSCs Ms. Yashika Gupta, Advocate
for the Revenue.

Mr Ajit Sharma, Advocate for
applicant in CM No.60079/2025.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE VINOD KUMAR

V. KAMESWAR RAO, J. (ORAL)

1. This petition has been filed by the petitioner with the following
prayer:-

*“(a) Allow the present petition and issue a writ of
certiorari or any other appropriate writ, order or
direction to quash and set-aside notice dated
26.03.2024 under Section 148A (b) followed by
subsequent approval dated 09.04.2024 under*



Section 151 order dated 09.04.2024 under Section 148A (d) and notice dated 09.04.2024 under Section 148 of the Income Tax Act, 1961 issued by the Respondents to the Petitioner Sh. Surender Kumar Wadhwa; AND”

2. Ms Kavita Jha, learned senior counsel appearing for the petitioner fairly states that the two issues which have been raised by the petitioner in this petition, that is, with regard to the issue of competency of Jurisdictional Assessing Officer (JAO) or the Faceless Assessing Officer (FAO) and also that the order which has been passed under Section 148A(d) of the Income Tax Act, 1961 (the Act) is beyond the period of limitation are covered against the petitioner. She fairly states that as far as the first issue is concerned, the same is covered against the petitioner by the judgment of this Court in the case of ***T.K.S. Builders Pvt. Ltd. v. Income Tax Officer Ward 25 (3) New Delhi : Neutral Citation : 2024:DHC:8330-DB*** whereby this Court has held that both the authorities, viz, JAO and FAO have concurrent jurisdiction to initiate the action for reassessment.

3. In so far as the second plea is concerned, she also states that the issue is covered against the petitioner by the judgment of this Court in ***Raminder Singh v. Assistant Commissioner of Income Tax : W.P.(C) No.8288/2023 decided on 07.08.2023*** wherein this Court has held as under:-

“10. The notice under Section 148A(b) was issued on 31.03.2023, and provided the assessee an opportunity to respond to the same on or before 10.04.2023; thus, the period between 31.03.2023 and 10.04.2023 is required to be excluded by virtue of the fifth proviso to Section 149(1) of the Act. Since, the period of limitation remaining thereafter is less than 07 days, by virtue of the sixth proviso to Section 149(1) of the Act,



the period gets extended by 07 days. The impugned notice has been issued on the last date of the limitation period and, therefore, the contention that it is beyond the period of limitation is erroneous.

11. Thus, the reopening of the assessment for the Previous Year relevant to the Assessment Year 2019-20 cannot be set aside. The AO shall, in the reassessment proceedings, duly consider the petitioner's contention that the expenditure in respect of Angel Enterprises was not booked in the Previous Year relevant to the Assessment Year 2018-2019 and, therefore, cannot be the subject matter of reassessment relevant to Assessment Year 2019-2020. Needless to state that the AO shall also consider the petitioner's contention on merits regarding the transactions entered into with Milap Advertising & Marketing Pvt. Ltd."

4. It is noted that the review of the order dated 07.08.2023 was sought, which resulted in the order dated 05.09.2023. This Court in the review order dated 05.09.2023 in paragraphs 9 to 11 has stated as under:-

"9. This court had accepted the contention that by virtue of the fifth and sixth proviso to section 149(1) of the Act, the period provided to the assessee to respond to the notice under clause (b) of section 148A of the Act is required to be excluded. Further, if the period of limitation remaining after such exclusion, is less than 7 days, then by virtue of the sixth proviso of section 149(1), the period of limitation is extended by a period of 7 days.

10. The impugned notice under Section 148A(b) of the Act was issued on 31.03.2023, and provided the petitioner an opportunity to respond to the same on or before 10.04.2023. Thus, the period between 31.03.2023 and 10.04.2023 is required to be excluded by virtue of the fifth proviso to Section 149(1) of the Act. Since, the period of limitation remaining thereafter is less than 7 days, by virtue of the sixth



proviso to Section 149(1) of the Act, the period gets extended by 7 days.

11. In view of the above, this court held that the impugned notice was issued on the last date of the limitation period – 17.04.2023 – and the petitioner’s contention that the same was issued beyond the period of limitation was erroneous.”

5. Ms Jha, learned Senior Counsel for the petitioner states that in facts of this case, wherein notice under Section 148A(b) dated 26.03.2024 by which time was granted till 04.04.2024 to file a reply to the same, which is eight days, the same is in compliance of the order under Section 148A(b) of the Act. The reply was filed by the petitioner on 03.04.2024, that is, one day before 04.04.2024 and the order having been passed on 09.04.2024, that is, much before the seven days’ had expired on 10.04.2024 or 11.04.2024 (as the case may be) the same was within limitation. She states that plea of the petitioner shall be unmerited.

6. We have been informed that a Special Leave Petition (Civil) with Diary No.48769/2023, is pending consideration before the Supreme Court against the order dated 07.08.2023 in **Raminder Singh (supra)**, but no stay has been granted by the Supreme Court.

7. If that be so, we are of the view that both the pleas advanced by Ms Jha, are unmerited. We dismiss this petition. The pending application is also disposed of having become infructuous.

CM APPL. 60079/2025(impleadment)

8. Mr Ajit Sharma, learned counsel for the applicant states that in view



of the dismissal of the writ petition itself, he shall withdraw this application to enable the applicant seek such remedy, as available in law.

9. Accordingly, the application is dismissed as withdrawn.

V. KAMESWAR RAO, J

VINOD KUMAR, J

SEPTEMBER 23, 2025

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