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

% *Date of Decision : 26.09.2025*

+ W.P.(C) 14734/2025, CM APPL. 60468/2025

HUAWEI TECHNOLOGIES COOPERATIEF U.A.Petitioner

Through: Mr. Kamal Sawhney and Mr. Nikhil
Agarwal, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE
INTERNATIONAL TAXATION-2(1)(1), DELHIRespondent

Through: Mr. Gaurav Gupta, SSC, Mr.
Shivendra Singh and Mr. Yojit
Praeek, JSCs and Mr. Surya Jinda,
Adv.

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 with the following prayers:

“(a) Issue a Writ of certiorari or any other appropriate writ, order or direction quashing the Impugned Notice dated 27.03.2025 issued under section 148A(1), Impugned Order dated 28.06.2025 passed under section 148A(3), and Impugned Section 148 Notice dated 28.06.2025 issued under section 148 of the Income-tax Act, 1961 for the AY 2019-20 along with consequential proceedings, if any;

(b) For such further and other reliefs, including costs of this Petition, as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case;”

2. The submission of Mr. Kamal Sawhney, learned counsel for the petitioner is that the impugned notice dated 27.03.2025 under Section 148A(1) of the Income Tax Act, 1961 (the Act) followed by the order dated



28.06.2025 under Section 148A(3) and the notice dated 28.06.2025 under Section 148 of the Act have been issued without any information even remotely suggesting any escapement of income. According to him, the petitioner is a non-resident entity which does not have any business operations in India. The petitioner had granted External Commercial Borrowings to its subsidiary, Huawei Telecommunications (India) Company Private Limited (“Huawei India”), via a Loan Facility Agreement dated 15.12.2014.

3. Pursuant to this Agreement, the petitioner received annual interest during the year on which taxes are deducted by the Huawei India as per the provisions of Section 194 LC of the Act.

4. Other than this, the petitioner has no other income in the Assessment Year 2019-20. He states that the only basis for the respondent to initiate re-assessment proceedings is the fact that the petitioner has not filed its Income Tax Returns (ITR) for the subject assessment year and that the petitioner has received certain interest income on which tax has been deducted under Section 194 LC of the Act.

5. It is his submission that this Court, on an identical issue in the case of ***Nvent International Holding S.A.R.L. vs. Union of India & Ors.*** in W.P.(C) no. 7385/2024, had on the first date of hearing granted an interim order restraining the respondents from taking further steps pursuant to the impugned notice issued under Section 148. He also draws our attention to the final decision of this Court on 22.05.2025, wherein, according to him, the notice was identical to the one which has been issued to the petitioner in the present case and the Court on findings, from paragraph 4 onwards has set aside the initial notice under Section 148A(1), the order under Section



148A(3) and the notice under Section 148, with an observation that the same shall not preclude the AO from issuing a fresh notice if any information is obtained, which suggest that the petitioner's income has escaped assessment during the relevant AY. The Court clarified, that AO is not precluded from making an inquiry necessary for seeking any information in accordance with law.

6. In any case, it is his submission that in the given facts the nature of notice issued to which explanation has been given on 27.04.2025, wherein the petitioner apart from highlighting the stand taken in the petition which has been noted above, has also referred to provisions of Section 194 LC to contend that the loan given by the assessee/ petitioner to Huawei India is covered by the provisions of the said Section. Therefore, necessary tax having been deducted while remitting the interest payment to the assessee the notices/order are unsustainable. He also refers to the provisions of Section 115A of the Act to contend that the tax rate for interest income received by the foreign company will be the rate provided under the said Section (i.e. 5 per cent), and in fact, it is the said percentage which has been deducted by the Huawei India.

7. On the other hand, Mr. Gaurav Gupta, learned Senior Standing Counsel, who had taken time to take instructions, submits that given the fact scenario which falls for consideration, more so when much reliance has been placed by the petitioner on the Loan Facility Agreement dated 15.12.2014 and also on Section 194 LC of the Act, appropriate shall be that the AO must examine all the aspects which have been urged by the petitioner in its reply and also in the Writ Petition to come to a conclusion as to whether the stand taken by the petitioner; the order which has been passed under Section



148A(3) and also notice under Section 148 of the Act are justified.

8. At this stage, Mr. Gaurav Gupta submits that appropriate shall be that the order dated 28.06.2025 under Section 148A(3) and also notice dated 28.06.2025 under Section 148 of the Act be set aside to enable the AO pass a fresh and a reasoned order by taking into consideration the document(s) which have been filed earlier and also along with this Writ Petition, within a period of four weeks from today.

9. Noting the said submission, we set aside the order dated 28.06.2025, passed under Section 148A(3) and also the notice dated 28.06.2025 issued under Section 148 of the Act. The AO shall pass a fresh and reasoned order within four weeks from the receipt of the order and then proceed in accordance with law. It is made clear that if the petitioner has any grievance on the passing of such reasoned order, liberty shall be with the petitioner to seek such remedy, as available, in accordance with law.

10. The pending application(s), if any, stands disposed of, as infructuous.

V. KAMESWAR RAO, J

VINOD KUMAR, J

SEPTEMBER 26, 2025

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