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

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Date of Decision : 06.10.2025

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W.P.(C) 15210/2025 CM APPL. 62378/2025

HARSHIT FINVEST PVT LTD

.....Petitioner

Through: Mr. Ashish Garg, Advocate.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 10 1
NEW DELHI & ANR.RespondentThrough: Mr. Abhishek Maratha, Sr. Standing
Counsel, Mr. Apoorv Aggarwal, Mr.
Parth Samwal, Jr. SCs, Ms Nupur
Sharma, Mr. Gaurav Singh, Mr.
Bhanukaran Singh Jodha, Ms
Muskaan Goel and Mr. Himanshu
Gaur, Advs.**CORAM:****HON'BLE MR. JUSTICE V. KAMESWAR RAO****HON'BLE MR. JUSTICE VINOD KUMAR****V. KAMESWAR RAO, J. (ORAL)****CM APPL. 62379/2025(Exemption)**

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 15210/2025 CM APPL. 62378/2025 (Stay)

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

“(I) Issue a writ of certiorari or any other appropriate writ, order, or direction quashing the impugned order dated 30.06.2025 passed under Section 148A(3) of the Income Tax Act, 1961 for the AY 2021-22 by Respondent No.1, as well as the consequential notice dated 30.06.2025 issued under Section 148 and all the consequent proceedings based thereon all of which are illegal, void ab initio, and in



violation of the principles of natural justice. (II) Pass such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

4. It is the submission of learned counsel for petitioner that the petitioner is a company incorporated under the Companies Act, 2013, registered with the Reserve Bank of India as a Non Banking Financial Company (NBFC) and is engaged in lawful business of inter-corporate financial arrangements advancing and receiving loans and deposits in the ordinary course of business. For the Assessment Year 2021-22, the petitioner filed its Income Tax Return, which stood accepted under Section 143(1) of the Income Tax Act, 1961 (the Act).

5. Mr. Ashish Garg states, the petitioner never had any transaction directly or indirectly with M/s. Ashutosh Traders, the entity alleged to be involved in GST invoice fraud. The limited dealings were with M/s. ITJ Retails Pvt. Ltd., which are purely in the nature of financial transactions, which are duly reflected in the Audit Accounts, Bank Statements and statutory filings.

6. He submits that on 29.03.2025, the petitioner was served with a notice under Section 148A(1) alleging escapement of income of Rs.6.75 Crores on the basis of purported Investigation Wing report, linking the Petitioner indirectly to M/s. Ashutosh Traders. According to him, the said report has incorrectly recorded that M/s. ITJ Retails Pvt. Ltd. had not responded to departmental queries, whereas in reality M/s. ITJ Retails Pvt. Ltd. had filed a categorical reply on 19.01.2023 denying any transaction with M/s. Ashutosh Traders. Despite the Petitioner's detailed reply dated 16.05.2025 placing these facts on record, further notices were repeatedly issued by the



respondent on identical allegations.

7. He states that, even further comprehensive replies were filed on 16.05.2025, 28.05.2025, and 16.06.2025 enclosing its NBFC license, audited accounts, bank statements, and ITJ confirmations. On 28.06.2025, M/s. ITJ Retails Pvt. Ltd., further clarified that the sum of Rs.18.92 lakhs received from M/s. Ashutosh Traders was merely an advance towards a proposed securities transaction which never materialised due to failure of KYC compliance, and therefore remained refundable in its books. Despite this, the Respondents persisted with the allegation that Rs.18.92 lakhs was an unexplained credit leading to alleged escapement of Rs.6.75 crores in the hands of the Petitioner.

8. That apart, Mr. Garg submits that the prescribed authority under Section 151 of the Act accorded sanction in a wholly mechanical manner, ignoring the glaring mismatch between the alleged entry of Rs.18.92 lakhs and the supposed escapement of Rs.6.75 crores. Such an approval, was given without due application of mind and renders the entire proceedings void.

9. Furthermore, he submits that no proceedings have been initiated against M/s. ITJ Retails Pvt. Ltd. for A.Y. 2021-22, despite it being the alleged recipient or counterparty to the transactions in question. This selective action against the Petitioner alone, while extending implicit exoneration to M/s. ITJ Retails Pvt. Ltd., reflects a clear bias and discriminatory conduct on part of the respondent Department, vitiating the proceedings as being arbitrary and violative of Article 14 of the Constitution of India.

10. He further states that the order, which has been passed under Section



148A(3) of the Act and also notice issued under Section 148 of the Act are liable to be set aside.

11. On the other hand, Mr. Apoorv Aggarwal appearing for the respondents by drawing our attention to the order passed under Section 148A(3) of the Act states that the same is a detailed order referring to each of the contention raised by the petitioner in its replies.

12. Mr. Aggarwal submits that the challenge in this Writ Petition is primarily on the merits of the action initiated by the respondents against the petitioner and this court would not substitute itself as an Assessing Officer and look at the same and decide the issue in writ petition. In any case, all pleas available to petitioner can be urged before the Assessing Officer.

13. Having heard the counsel for the parties and also perused the order, which has been passed under Section 148A(3) of the Act, we are of the view that order is a speaking one considering all the pleas advanced by the petitioner and as such this court cannot interfere with the impugned action at this stage. The order reads as under :

“The submission of the assessee has been duly considered. Upon perusal of the same, it was found lacking in substantial documentation.

As an NBFC, the assessee is mandatorily required under RBI guidelines and the Companies Act, 2013, to maintain proper documentation for inter-corporate lending, including board resolutions under Section 179, loan registers, KYC documentation, interest rates, and tenure details. The complete absence of such documentation in assessee's submission is noted. The admission that transactions worth Rs.6.75 crores were conducted based on "mutual understanding" without formal agreements demonstrates a complete absence of due diligence that any legitimate NBFC would undertake before advancing funds.

5. INDEPENDENT VERIFICATION UNDER SECTION 133(6) - THE DECISIVE EVIDENCE

A. Decision to Conduct Independent Inquiry



To eliminate any possibility of the proceedings being challenged on grounds of "borrowed satisfaction" and to independently verify the facts, a notice under Section 133(6) of the Income Tax Act was issued to M/s ITJ Retails Private Limited on 13.06.2025, specifically seeking their complete bank statements for Financial Year 2020-21.

B. Evidence

The bank statements furnished by ITJ Retails in response to the Section 133(6) notice contained a revelation that completely transformed the evidentiary landscape of the case. The statements clearly showed a entry of Rs.18,92,000/- with M/s Ashutosh Traders (Prop. Ashutosh Garg, PAN: DHQPG0115L) dated 23.12.2020.

23/12/2020	By RTGS/NEFTAT HQ: RTGS-BOBLR12020122300000344 :RAHUL			990000	1059028.83
23/12/2020	To TRF O/W. Neft-Rtgs Charge		5		1059023.83
23/12/2020	To TRF O/W. Neft-Rtgs GST		0.9		1059022.93
23/12/2020	By RTGS/NEFTOutward Neft-Rtgs :RATTAN GUPTA	455644	32500		1026522.93
23/12/2020	By RTGS/NEFTAT HQ: RTGS-BOBLR52020122300002656 :JAIN ENTERPRISES			1850000	2876522.93
23/12/2020	By RTGS/NEFTAT HQ: RTGS-BOBLR52020122300002391 :ASHUTOSH TRADERS			1892000	4768522.93
24/12/2020	To TRF O/W. Neft-Rtgs Charge		50		4768472.93
24/12/2020	To TRF O/W. Neft-Rtgs GST		9		4768463.93

This is significant for the following reasons:

i. *Direct Contradiction Exposed:* The bank statement evidence directly and same, it was found lacking in substantial documentation.

As an NBFC, the assessee is mandatorily required under RBI guidelines and the Companies Act, 2013, to maintain proper documentation for inter-corporate lending, including board resolutions under Section 179, loan registers, KYC documentation, interest rates, and tenure details. The complete absence of such documentation in assessee's submission is noted. The admission that transactions worth Rs.6.75 crores were conducted based on "mutual understanding" without formal agreements demonstrates a complete absence of due diligence that any legitimate NBFC would undertake before advancing funds.

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23/12/2020	By RTGS/NEFT AT MD1			
	RTGS-INDIA/2020/22300000344-PAHL	3.00	0.00	1059023.83
23/12/2020	To TDF D/W. Nett-Rtgs Charge			
23/12/2020	To TDF D/W Nett-Rtgs GST	0.90	0.00	1059022.93
23/12/2020	By RTGS/NEFT Outward Nett-Rtgs : RATTON GUPTA	000045544	22500.00	1076522.93
23/12/2020	By RTGS/NEFT AT MD13/12/2020			
	RTGS-INDIA/2020/22300000344-JAIN ENTERPRISES	0.00	185000.00	2976522.93
23/12/2020	By RTGS/NEFT AT MD1			
	RTGS-INDIA/2020/22300000344-ASHUTOSH TRADERS	0.00	185200.00	4768522.93
24/12/2020	To TDF D/W. Nett-Rtgs Charge	50.00	0.00	4768472.93
24/12/2020	To TDF D/W Nett-Rtgs GST	0.00	0.00	4768472.93

This is significant for the following reasons:

- Direct Contradiction Exposed:** The bank statement evidence directly and unequivocally contradicted ITJ Retails' written statement dated 19.01.2023 wherein they had categorically denied having any financial transactions with M/s Ashutosh Traders during the relevant period.
- Corroboration of intelligence:** The finding completely corroborated the original STR and Investigation Wing report, thereby validating the information that had triggered the CRIU/VRU flag.
- Destruction of Credibility:** The false statement made by ITJ Retails completely destroyed their credibility as a witness and exposed the coordinated nature of the accommodation entry scheme.
- Independent Application of Mind:** The verification conducted through Section 133(6) notice demonstrated clear independent application of mind by the Assessing Officer, thereby neutralizing any challenge based on "borrowed satisfaction."

Even otherwise, the letter submitted by the assessee to support its claim does not bear any official stamp of receiving the O/o ITO Wing and in absence of the same, the contention of the assessee cannot be acceded to that this letter was officially produced/furnished before the ITO, wing.

6. ANALYSIS OF INCOME ESCAPEMENT

A. Unexplained Credits under Section 68 (Rs.4,90,00,000/-)

The assessee received credits totaling Rs.4,90,00,000/- from M/s ITJ Retails Private Limited during Financial Year 2020-21. Under Section 68 of the Income Tax Act, any sum credited in the books of an assessee as income must be explained by the assessee failing which it shall be charged to income-tax as the income of the assessee of that previous year.

To discharge the burden under Section 68, the assessee must prove three essential elements:



1. *Identity of the Creditor:* While ITJ Retails is identifiable as a corporate entity, its role as a conduit in an accommodation entry scheme raises serious questions about its genuine capacity as a creditor.

2. *Creditworthiness of the Creditor:* No evidence has been provided to establish ITJ Retails' financial capacity to advance Ra.4.90 crores, particularly in light of its involvement with accommodation entry providers.

3. *Genuineness of the Transaction:* The absence of formal agreements, interest charges, due diligence, and the proven false statement by ITJ Retails severely compromise the genuineness of these transactions.

The Supreme Court in Sumati Dayal v. CIT (1995) 214 ITR 801 held that where an assessee fails to satisfactorily explain the source of credits despite opportunity, such credit are rightly treated as unexplained and added to income.

"It is, no doubt, true that in all cases in which a receipt is sought to be taxed as income, the burden lies on the department to prove that it is within the taxing provision and if a receipt is in the nature of income, the burden of proving that it is not taxable because it falls within exemption provided by the Act lies upon the assessee. But in view of section 68, where any sum is found credited in the books of the assessee for any previous year, the same may be charged to income-tax as the income of the assessee of that previous year if the explanation offered by the assessee about the nature and source thereof is, in the opinion of the Assessing Officer, not satisfactory. In such case there is prima facie evidence against the assessee, viz., the receipt of money, and if he fails to rebut the same, the said evidence being unrebutted, can be used against him by holding that it is a receipt of an income nature. While considering the explanation of the assessee, the department cannot, however, act unreasonably."

B. Bogus Expenditure under Section 69C (Rs. 1,85,00,000/-)

The assessee claimed expenditure of Rs.1,85,00,000/- as purchases from M/s ITJ Retails Private Limited. However, several factors indicate the bogus nature of these transactions:

1. *No Supporting Documentation:* The assessee admitted that no invoices were raised for these transactions.

2. *Conduit Nature of Counterparty:* ITJ Retails' established role as a conduit in accommodation entries raises serious doubts about its capacity to provide genuine goods or services.

3. *Quick Square-off.* The transactions were squared off within a short period, suggesting accommodation rather than genuine commercial active.

Section 69C deems any expenditure which is not satisfactorily explained by the assessee as income of the assessee. The provision is designed to prevent artificial reduction of taxable income through bogus expenditure claims.

7. REBUTTAL OF ASSESSEE'S OBJECTIONS



A. "Proceedings Based on Suspicion"

Assessee Argument: The proceedings are based on "whims, conjectures, and suspicion" rather than concrete evidence.

Response: This contention is factually and legally unsustainable. The evidence in the present case consists of:

- *Specific STRs identifying particular transactions and amounts*
- *Bank statements showing actual fund flows*
- *Ledger entries maintained by the assessee itself*
- *Independent verification through Section 133(6) inquiry*
- *Documentary proof of false statements by the intermediary*

The present case clearly falls in the latter category, as it involves Rs.6.75 crores of identifiable transaction supported by specific documentary evidence.

B. "Borrowed Satisfaction"

Assessee's Arguments: The Assessing Officer has not applied independent mind and has merely adopted Investigation Wing findings.

Response: This objection has been completely neutralized by the independent actions taken by the undersigned:

- *Specific queries were raised seeking detailed information about the impugned transactions*
- *Independent notice under Section 133(6) was issued to ITJ Retails*
- *Personal examination and verification of bank statement and ledger accounts was conducted*
- *Comparative analysis of conflicting statements was undertaken*
- *Independent application of mind is evident from the detailed analysis and specific findings*

C. "No Specific Nexus"

Assessee's Argument: There is no direct connection between the assessee and M/s Ashutosh Traders.

Response: This arguments misconceives the nature of accommodation entry schemes. The nexus has been established through the following chain:

- *M/s Ashutosh Traders provided accommodation entries and received GST refunds*
- *Rs.18.92 lakhs was transferred from Ashutosh Traders to ITJ Retails (proven through bank statements)*
- *ITJ Retails thereafter advanced Rs.4.90 crores to the assessee and received back Ra.1.85 crores as bogus purchases*
- *The assessee's primary obligation is to explain its direct transactions with ITJ Retails, regardless of ITJ's source of funds*

8. CONCLUSION AND FINAL DECISION

After extensive consideration of the information received, the assessee's detailed responses, independent verification conducted, and applicable legal principles, the following conclusions are inevitable:

i. Information is Credible and Specific: The STRs and subsequent verification have established a clear and traceable money trail involving



significant amounts. The information is backed by concrete documentary evidence and is far from being mere suspicion or conjecture.

ii. *Substantial Income Escapement Established:* There is compelling evidence that Rs.6.75 crores of Income has escaped assessment, consisting of unexplained credits received by the assessee and bogus expenditure claimed through accommodation entries.

iii. *Assessee's Explanations are Inadequate:* Despite two opportunities, the assessee has failed to provide satisfactory explanation for the commercial rationale, proper documentation, or genuineness of the impugned transactions. The admissions made regarding lack of formal agreements and absence of interest charges severely undermine the claimed NBFC business narrative.

iv. *Independent verification results:* Independent verification has conclusively exposed false statements made by the intermediary ITJ Retails, which destroys the credibility of the entire transaction chain and serves as a strong indicator of the accommodation nature of transactions.

v. *All Legal Requirements Satisfied:* The conditions for reopening under Sections 147, 148, and 148A have been fully satisfied. The procedural requirements have been scrupulously followed, and the assessee has been given adequate opportunity to explain its position.

vi. *Independent Application of Mind Demonstrated:* The extensive independent verification conducted, including Section 133(6) inquiry, specific queries raised, and detailed analysis undertaken, clearly demonstrate independent application of mind by the Assessing Officer

9. Having considered all the material available on record, it is ascertained that the amount of Ra. 6,75,00,000/- constitutes income chargeable to tax has escaped assessment.

10. It is in accordance with the judicial principles laid down by the Hon'ble Supreme Court in the case of *ACIT v. Rajesh Jhaveri Stock Brokers P. Ltd.* (2007) 291 ITR 500 (SC) [BCAJ]- wherein issuance of notice u/s 148 has been validated under similar circumstances;

"As per our considered view, at the time of issue of notice, it is sufficient that *prima-facie* reasons and material should be with Assessing Officer that there is escapement of some income. At the time of issue of notice the Assessing Officer is not required to conclusively establish that there is escapement of income is sufficient for issue of notice u/s 148."

11. It is also pertinent to mention that in the case of *CVT v Nova Promoters & Finlease (P) Ltd.* (ITA No. 342 of 2011) dated 15.02.2012, the Hon'ble Delhi High Court, which is the jurisdictional High Court, held that as long as there is a 'live link' between the material which was placed before the Assessing Officer at the time when reasons for reopening were recorded, proceedings u/s 147 would be valid. The Court also held:

"We are aware of the legal position that at the stage of issuing the notice u/s 148, the merits of the matter are not relevant and the Assessing Officer at that stage is required to form only a *prima facie* belief or opinion that



income chargeable to tax has escaped assessment”

12. *In view of above, it is deemed a fit case for issuance of notice under Section 148 of the Act.*

13. *It is further stated that since the time of three years and three months from the end of the relevant assessment year has not been lapsed in this case, therefore, present case of the assessee falls under clause (a) of the sub-section (1) of the section 149 of the Act. There is sufficient information in possession which reveal that the income chargeable to tax amounting of Rs.6,75,00,000/- has escaped assessment for the reasons mentioned above.*

14. *This order is being passed after obtaining the prior approval of specified authority u/s 151 of the Act i.e. the Additional Commissioner of Income Tax, Range-10, New Delhi. Accordingly, notice u/s 148 of the Act is issued separately.”*

14. Having noted the above factual narrative and in view of settled position of law in terms of the judgment of the Supreme Court in case of ***Principal Director of Income Tax (Investigation) and Others v. Laljibhai Kanjibhai Mandalia (2022) 16 SCC 139*** we are of the view that the impugned order needs no interference, when no jurisdiction plea has been advanced. The Supreme Court has held in ***Laljibhai (supra)*** as under :

“39. In the light of judgments referred to above, the sufficiency or inadequacy of the reasons to believe recorded cannot be gone into while considering the validity of an act of authorisation to conduct search and seizure. The belief recorded alone is justiciable but only while keeping in view the Wednesbury 22 Principle of Reasonableness. Such reasonableness is not a power to act as an appellate authority over the reasons to believe recorded.

40. *We would like to restate and elaborate the principles in exercising the writ jurisdiction in the matter of search and seizure under Section 132 of the Act as follows:*

40.1. *The formation of opinion and the reasons to believe recorded is not a judicial or quasi-judicial function but administrative in character.*

40.2. *The information must be in possession of the authorised official on the basis of the material and that the formation of opinion must be honest and bona fide. It cannot be merely pretence. Consideration of any extraneous or irrelevant material would vitiate the belief/satisfaction.*

40.3. *The authority must have information in its possession on the basis of which a reasonable belief can be founded that the person concerned has omitted or failed to produce books of accounts or other documents for*



production of which summons or notice had been issued, or such person will not produce such books of accounts or other documents even if summons or notice is issued to him.

40.4. Such person is in possession of any money, bullion, jewellery or other valuable article which represents either wholly or partly income or property which has not been or would not be disclosed.

40.5. Such reasons may have to be placed before the High Court in the event of a challenge to formation of the belief of the competent authority in which event the Court would be entitled to examine the reasons for the formation of the belief, though not the sufficiency or adequacy thereof. In other words, the Court will examine whether the reasons recorded are actuated by mala fides or on a mere pretence and that no extraneous or irrelevant material has been considered.

40.6. Such reasons forming part of the satisfaction note are to satisfy the judicial consciousness of the Court and any part of such satisfaction note is not to be made part of the order.

40.7. The question as to whether such reasons are adequate or not is not a matter for the Court to review in a writ petition. The sufficiency of the grounds which induced the competent authority to act is not a justiciable issue.

40.8. The relevance of the reasons for the formation of the belief is to be tested by the judicial restraint as in administrative action as the Court does not sit as a court of appeal but merely reviews the manner in which the decision was made. The Court shall not examine the sufficiency or adequacy thereof.

40.9. In terms of the Explanation inserted by the Finance Act, 2017 with retrospective effect from 1-4-1962, such reasons to believe as recorded by the Income Tax Authorities are not required to be disclosed to any person or any authority or the Appellate Tribunal.”

15. We accordingly dismiss the petition.

V. KAMESWAR RAO, J

VINOD KUMAR, J

October 06, 2025

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