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

\+ W.P.(C) 17118/2024, CM APPL. 72621/2024

NV HOLDING (INDIA) PRIVATE LTD. .....Petitioner

Through: Mr. Manuj Sabharwal, Mr. Devvrat Tiwari and Mr. Drona Negi, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME-TAX CENTRAL CIRCLE 31, DELHI & ORS. .....Respondents

Through: Mr. Abhishek Maratha Sr. SC, Mr. Appoorv Agarwal, Mr. Parth Samwal, Jr. SCs with Ms Nupur Sharma, Mr. Gaurav Singh, Mr. Bhanukaran Singh Jodha, Ms Muskaan Goel and Mr. Nischay Purohit, Advs.

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

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

% 05.08.2025

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

> *"a. Issue a writ in the nature of certiorari or any other appropriate writ(s), orders(s), direction(s) for quashing of impugned notice dated 31.08.2024 [Annexure P-2] issued by the Respondent No. 1 under s. 148 of the Act and impugned order dated 31.08.2024 [Annexure P-1] passed by the Respondent No. 1 under 148A(d) of the Income-tax Act, 1961; and / or*
> *b. Issue a writ in the nature of mandamus or certiorari or any other appropriate writ(s), order(s), direction(s) more specifically in the nature certiorarified mandamus to call for the relevant underlying records and information available with the Respondent No.1 (including but not limited to the proof of dispatch, service of notice along with approvals/ sanctions) and*

quash the same; and / or"

2. The challenge is primarily to notice dated 31.08.2024 and order dated 31.08.2024, which have been passed under Section 148 and under Section 148 A(d) Income Tax Act 1961. Learned counsel for the petitioner would rely upon the judgment of this court in ***Manju Somani v. Income Tax Officer Ward/Item no. 70(1) & Ors.*** W.P.(C) 7364/2024 decided on 23.07.2024 to contend that the impugned notice and order dated 31.08.2024 also liable to be set aside, as in paragraph 12 onwards, this court has stated as under :

> *12. As is manifest from the above, the Proviso to Section 149 clearly bids us to go back in point of time and examine whether a proposed reassessment pertaining to a period prior to 01 April 2021 would sustain based on the time frames as they existed prior to the promulgation of Finance Act, 2021. The Proviso embodies a negative command restraining the respondents from issuing a notice under Section 148 in respect of an AY prior to 01 April 2021, if the period within which such a notice could have been issued in accordance with the provisions as they existed prior thereto had elapsed. This is manifest from the provision using the expression "no notice under Section 148 shall be issued" if the time limit specified in the relevant provisions "…..as they stood immediately prior to the commencement of the Finance Act, 2021" had expired. A reassessment which is sought to be commenced post 01 April 2021 would thus have to abide by the time limits prescribed by Sections 149 (1)(b), 153A or 153B as may be applicable.*
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> *13. Undisputedly, Section 149(1)(b) as it stood prior to theintroduction of the amendments by way of Finance Act, 2021 prescribed that no notice under Section 148 shall be issued if four years "but not more than six years" have elapsed from the end of the relevant assessment year. Thus the period of six years stood erected as the terminal point which when crossed would have rendered the initiation of reassessment impermissible in law.*

14. Viewed in light of the above, the impugned notice when tested on the anvil of the pre-amendment Section 149(1)(b) in order to be sustained would have to meet the prescription of six years. Undisputedly that period in respect of AY 2016-17 came to an end on 31 March 2023. We thus find ourselves unable to sustain the impugned action of reassessment and which was commenced pursuant to the notice dated 29 April 2024.

15. It would be important to note that the respondents also do not attempt to sustain the initiation of action on any other statutory provision and which could be read as extending the time limit that applied. We also find ourselves unable to read Twylight Infrastructure as empowering them to reopen assessments contrary to the negative covenant which forms part of Section 149 of the Act.

16. We accordingly allow the present writ petition and quash the impugned order under Section 148A (d) dated 29 April 2024 as well as the consequential notice under Section 148 of even date."

3. He stated as has been held by this court that a reassessment, which sought to be commenced post 01.04,2021 shall abide by the time limits prescribed under 149(1)(b), 153A or 153B as may applicable, and as the notice under Section 148 and order under Section 148A(d) having been issued on 31.08.2024, the same were issued/passed much beyond the period of six years as the relevant Assessment Year is 2014-15, and as such the impugned order and notice both dated 31.08.2024 need to be set aside.

4. Though the counsel for the respondents do not seriously contest the applicability of the judgment in the case of **Manju Somani** (supra), she prays time to file counter affidavit. We refuse to grant time to file counter affidavit as the applicability of the judgment in case of **Manju Somani** (supra) is not seriously contested. It is conceded that the judgment in the Manju Somani (supra) has attained finality. So the impugned order and notice dated

31.08.2024 are set aside. Petition is disposed of.

V. KAMESWAR RAO, J

VINOD KUMAR, J

AUGUST 05, 2025
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