18.06.2026
Ct. No. 10
Sl. No. 02
AN

WPA 19081 of 2025

Ojaswini Retailers Private Limited & anr.
-Versus-
The Union of India & Ors.

Mr. Talay Masood Siddique, ld. Sr. Adv.
Mr. Himangshu Kumar Ray
Mr. Subhasis Podder
Ms. Shiwani Shaw
Mr. Animitra Roy
…for the petitioner.

Mr. Siddhartha Lahiri
Mr. Amit Kumar Sharma
… for the respondents.

1. Affidavit of service filed on behalf of the petitioners be taken on record.

2. The present Writ petition has been filed challenging the Order dated 30th June 2025 passed under Section 148A(3) of the Income Tax Act, 1961 (hereinafter referred to as the said Act) and the consequential notice dated 30th June 2025 issued under Section 148 of the said Act for Assessment Year 2020-21.

3. The core issue involved herein is whether the Assessing Officer validly formed the opinion that income has escaped assessment without considering the reply and materials submitted by the petitioners and whether the principles of natural justice has been violated.

4. The Learned Counsel appearing for the petitioners submit that the impugned order dated 30th June 2025 suffers from a legal infirmity as the same has been passed without considering the two replies dated 14th April 2025 and 19th June 2025 filed by the petitioners in response to the show cause notice dated 19th March 2025 issued under Section 148A(1) of the said Act.

5. It is further submitted that the finding recorded by the Assessing Officer that the transaction with M/s. Fantastic Hirise Private Ltd. and M/s. Foremost Enterprise Private Ltd. lacked commercial substance, is perverse, arbitrary and unsustainable in law.

6. The order passed by the Assessing officer is in gross violation of the principles of natural justice as the petitioners have not been granted an effective opportunity to rebut the allegations, despite having submitted banking statements and other documents. The transactions in question have been carried out through legitimate banking channels and the petitioners have produced the bank statement of their accounts with Federal Bank Ltd. and M/s. Foremost Enterprise Private Ltd. with IDBI Bank. Mere routing of funds in the same day cannot ipso facto lead to a conclusion of accommodation entry of money laundering, thus, the impugned Order dated 30th

June 2025 as the notice issued under Section 148 of the even date are liable to be set aside.

7. The Learned Counsel appearing for the income tax authorities vehemently opposes the Writ Petition and submits that the reply of the petitioners has duly been considered and draws the attention of this court to the penultimate paragraphs of the impugned order dated 30th June 2025 which is reproduced below:

> *"5.2. The assessee stated in its reply that it had received Rs. 2,96,50,000/- from M/s Foremost Enterprises Pvt. Ltd. and Rs. 3,06,00,000/- from M/s Fantastic Hirise Pvt. Ltd. against sale of investments (equity shares) during the relevant financial year. The assessee submitted (i) copy of bank statement only a few pages but not the complete bank statement of the assessee company as well as of one of the buyers namely M/s Foremost Enterprises Pvt Limited, (ii) the copy of audited accounts of the assessee company as well as of both the buyer for the concerned financial year, (iii) copy of sale bill etc. However, the assessee had not submitted FMV (Fair Market Value) of equity shares (being the investment).*
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> *5.3. Findings of Investigation wing:*
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> *As per investigation done by the Department in the case of M/s Highland Transport Pvt. Ltd from where in the assessee company has received fund as one of the beneficiaries through the shell entities namely M's Foremost Enterprises Pvt. Ltd. and M/s Fantastic Highrise Pvt Limited. Further as per the information shared, it is also seen that M/s*

Foremost Enterprises Pvt. Ltd. and M/s Fantastic Highrise Pvt Limited has received funds from shell Highland Transport Pvt. Ltd which is enlisted in the departmental database as a paper/shell company. The past/ present directors of all the above concerns are enlisted in the database of the Department as dummy directors of well-known entry operators. The entire amount raised in the form of share capital/premium was invested in the form of unlisted equities. From the financial analysis of M/s Highland Transport Pvt. Ltd, it is evident that bogus share capital and share premium raised have been Invested in unlisted equities and later on, those investments have been liquidated. After liquidation, those funds have been utilized as loans and advances. During the investigation, analysis of the transactions of the alleged bank accounts for the period under consideration. It is observed that huge amount were credited and debited in the account whereas the entity has very weak financials and has almost nil creditworthiness to perform such huge transactions. Moreover, the bank statement shows that the account was used for incoming and outgoing of funds i.e. circulation of funds without any real business affairs. Hence, it is clear that all the concerned entities from where the assessee company received funds/money are paper / shell entity, which has been used for providing accommodation entries and unaccounted money has been routed and the said fund is credited in the books of accounts of the assessee company herein one of the beneficiary concerns without any business rationality."

8. It has been specifically recorded that the petitioners being the assessee furnished only partial bank statements for selected period. Upon perusal of the statements reveals a pattern wherein substantial amount has been credited and debited on the same day or through immediate routing, indicating lack of commercial substance.

9. It is further submitted that apart from routing through banking channels, no evidence has been provided to establish the genuineness of the transaction. The use of a legitimate banking channels does not render a transaction genuine if it is a part of scheme to launder unaccounted money.

10. The petitioners have already participated in the proceedings by filing a reply to the show cause notice issued under Section 148A(1) of the said Act, cannot be challenged in the present Writ Petition.

11. A summons under Section 131(1A) dated 28th October 2024 has been issued seeking details regarding the nature of business and relationship with other entities. The same has been returned back undelivered by Speed Post with an endorsement "addressee cannot be located" and the same has subsequently been served by email. Despite service, the assessee did not comply.

12. It is further submitted that the Writ Petition is premature and de void of merit. The Assessing Officer has acted in accordance with law based on the information received from ADIT(I&V) Unit II (1) Kolkata.

13. After hearing the rival contention of the parties and upon perusing the available records this Court is of the prima facie view that it is apparent from the impugned order the Assessing Officer has not considered the replies dated 14th April 2025 and 19th June 2025 in their entirety. The order records only the submission of the partial bank statements but does not deal with an explanation offered by the petitioners.

14. The findings arrived by the Assessing Officer is perverse, and without jurisdiction as the order does not record a detail finding with regard to the income alleged to have escaped assessment for Assessment Year 2020-21. Mere reference to circular transactions, without analyzing the commercial rational or materials furnished cannot sustain the formation of the believe under Section 148A(3) of the said Act. Since the mandate of Section 148A requires the Assessing Officer to consider the reply from the assessee and decide by passing an order whether it is a fit case to issue notice under Section 148. In the present case since the specific replies have been filed, non-consideration thereof, vitiates the order.

15. The genuineness and the creditworthiness of the transactions with M/s. Fantastic Hirise Private Ltd. and M/s. Foremost Enterprise Private Ltd. requires fresh examination after affording an opportunity of hearing.

16. In view of the above the impugned order dated 30th June 2025 along with the consequential notice issued under Section 148 of the said Act are hereby quashed and set aside.

17. The respondent No. 3 being the Assessing Officer is directed to revisit the issue regarding the genuineness of the transactions with M/s. Fantastic Hirise Private Ltd. and M/s. Foremost Enterprise Private Ltd. and pass a reasoned order in accordance with law upon affording an opportunity of hearing to the petitioners and other beneficiaries before arriving at a conclusion with regard to the income alleged to have escaped assessment for Assessment Year 2020-21. The petitioners are directed to produce all banking statements to demonstrate and prove that the circular movements of funds are genuine in nature. The entire exercise shall be completed peremptorily by 15th July 2026. The decision taken by the Assessing Officer shall be communicated to the petitioner within a week thereafter.

18. With the above observation and direction the Writ petition is **disposed of** by quashing and setting aside the order dated 30.06.2025.

19. Since no affidavit has been called for the allegations made in the Writ petition are deemed not to have been admitted.

20. There will be no order as to costs.

(Smita Das De, J.)