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

\+ W.P.(C) 1040/2026, CM APPL. 5027/2026, CM APPL. 5028/2026

GUPTA VIJAY K AND CO .....Petitioner

Through: Mr. Nitin Kanwar and Mr. Aditya Kumar Garg, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX & ANR. .....Respondents

Through: Mr. Shlok Chandra, SSC with Ms. Naincy Jain, JSC.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

ORDER

% **27.01.2026**

1. The present writ petition has been preferred with the following prayers:-

> "*(a) writ in the nature of mandamus/ certiorari or any other appropriate writ, order or direction, for quashing*
> *a. The assessment order dated 07.01.2026 issued by the Respondent No. 1 under section 147 of the Act*
> *b. the notice dated 30.08.2024 issued by Respondent No.1 under section 148 of the Act; and*
> *in the name/ case of the Petitioner for assessment year 2018-19, and all actions, recovery/penalty proceedings subsequent/consequent thereto, as being wholly without jurisdiction, illegal, void ab initio and untenable in law;*
> *(b) grant an ad-interim ex-parte relief in terms of prayer (a) above, inter alia, staying all proceedings/actions subsequent/consequent to the impugned order issued under section 147 of the Act for assessment year 2018-19, during pendency of the present petition;*
> *(c) call for the records of the case from the Respondents;*
> *(d) pass such other order or orders as this Hon'ble Court*

may deem fit and proper in the facts and circumstances of the case."

2. Mr. Nitin Kanwar, learned counsel for the petitioner argued that the notice dated 30.08.2024 issued by respondent No. 1-Assistant Commissioner of Income Tax CC-25, Delhi (*hereinafter referred to as 'AO'*) under Section 148 of the Income Tax Act 1961, (*hereinafter referred as 'the Act of 1961'*) is wholly without jurisdiction and bad in the eye of law.

3. In order to satisfy the Court about jurisdiction, learned counsel submitted that respondent No. 1 is an officer of Delhi and does not have jurisdiction in the instant case inasmuch as the petitioner had filed his return of income before the Income Tax Office Ward 36(1), Kolkata.

4. During the course of submission, learned counsel for the petitioner informed that petitioner's jurisdiction came to be transferred to respondent No. 1 by way of order dated 29.03.2023, pursuant to a show cause notice dated 14.02.2023 issued under Section 127(2) of the Act of 1961.

5. Learned counsel contended that the notice dated 14.02.2023 was not served upon the petitioner and it was only uploaded on the Income Tax Business Application Portal and in light of judgment rendered by Punjab and Haryana High Court in the case of ***Munjal BCU Centre of Innovation and Entrepreneurship, Ludhiana through its Authorised Signatory Sh. Bharat Goel v. Commissioner of Income Tax Exemptions, Chandigarh, CWP-21028-2023 (O & M)*** decided on 04.03.2024, such service cannot be treated to be a service.

6. He argued that since the jurisdiction came to be vested in respondent No. 1 pursuant to the order dated 29.03.2023 which order was bad in the eye of law for being violative of natural justice, respondent No. 1 did not have

jurisdiction to proceed against the petitioner.

7. Having heard learned counsel for the petitioner and upon perusal of the material, we find that the notice under Section 148 was issued way back on 30.08.2024, against which the petitioner has not raised any grievance or plea of any nature. Insofar as the order under Section 127 of the Act of 1961 is concerned, the same too was passed on 29.03.2023 and no remedy was availed by the petitioner against such order. Even in the present writ petition, petitioner has not laid any challenge to the order dated 29.03.2023 passed under Section 127 of the Act of 1961.

8. Such being the position, the order under Section 127 of the Act of 1961 has attained finality sans any challenge. Hence, petitioner's contention of impugning the notice dated 30.08.2024 falls flat on the ground.

9. That apart, said notice was issued way back on 30.08.2024 whereas the petitioner has preferred instant writ petition on 09.01.2026 with a delay of one year and four months, that too when the notice has culminated into an assessment order, against which the petitioner is having efficacious statutory remedy under the Act of 1961.

10. The petition is, therefore, dismissed without making any observations about the merit of the petitioner's contention. A liberty is granted to file an appeal and raise all permissible grounds.

11. The petition alongwith pending applications stands dismissed accordingly.

DINESH MEHTA, J.

VINOD KUMAR, J.

JANUARY 27, 2026/MR