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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 3947/2026, CM APPL. 19255/2026 & CM APPL. 19256/2026**

ANURADHA DOSHI

.....Petitioner

Through: Mr. S. Vasudevan, Mr. Tanmay Bhatnagar, Mr. Shivam Gupta & Mr. Aman Malhotra, Advs.

versus

INCOME TAX OFFICER, WARD 50(1), DELHI & ANR.

.....Respondents

Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh & Mr. Yojit Pareek, JSCs and Mr. Surya Jindal, Adv.

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MR. JUSTICE VINOD KUMAR

ORDER

19.05.2026

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1. By way of the present petition preferred under Articles 226 & 227 of the Constitution of India, the petitioner has challenged the assessment order dated 31.03.2022, passed by the respondent no.1 under Section 147 read with Section 144 of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*). The consequential demand notice, penalty order and the recovery proceedings including the attachment order dated 12.01.2026 passed under Section 226(3) of the Act of 1961 attaching the petitioner's bank account maintained in HDFC Bank, Worli Sea Face Branch, Mumbai, are also under challenge.



2. The petitioner claims to have left India in 2006 to live permanently in Abu Dhabi, United Arab Emirates. According to the facts pleaded, the petitioner has been a Non-Resident Indian (*hereinafter referred to as 'NRI'*) for the purpose of the Act of 1961 and she does not have any taxable income in India.
3. The petitioner claims to have learnt that an assessment order has been passed against her and her bank account has been attached by the Income Tax Department only when she tried to operate her bank account maintained with the HDFC Bank, Worli Sea Face Branch, Mumbai, on 27.01.2026.
4. The petitioner thereafter opened her account on Income Tax Business Application Portal (*hereinafter referred to as 'ITBA portal'*) portal on 27.01.2026 and obtained a copy of the assessment order dated 21.03.2022 on the ITBA portal.
5. Learned Counsel for the petitioner argued that the impugned assessment order has been passed in violation of principles of natural justice inasmuch as no notice was served upon the petitioner. He argued that the address given in the assessment order is that of Inderpuri, New Delhi, at which address, the petitioner used to reside 20 years ago. He submitted that it was incumbent upon the Assessing Officer to have ensured service of the notice before passing the assessment order and raising the demand under the Act of 1961.
6. He further contended that the respondents had the bank details and had the Assessing Officer undertaken some trouble, he could have obtained petitioner's address from HDFC Bank, Worli Sea Face Branch, Mumbai. He emphasized that it is the requirement of II Proviso to Rule 127 of the Income Tax Rules, 1962 that the notice can be served on the address given in the



bank.

7. Learned counsel argued that since the assessment order has been passed without serving a notice upon the petitioner and without following the procedure prescribed by law, the same is liable to be quashed and set aside.

8. Learned Senior Standing Counsel for the respondent-Department, on the other hand, submitted that the address given on the assessment order so also the address on which the notice was sought to be served is the one which was given on the Permanent Account Number (*hereinafter referred to as 'PAN'*) and the same address is given on petitioner's passport. He submitted that the petitioner having sold a property in India, was required to file a return and get an account opened on ITBA portal along with requisite particulars including her present address. And since the same was not done, the Assessing Officer could only make an attempt to serve the notice on the available address in PAN and passport.

9. He argued that the petitioner's plea that the Assessing Officer ought to have inquired about the petitioner's address from the bank is absolutely untenable inasmuch as the respondent-Assessing Officer did not have the particulars of the bank with him. He added that it was only after many efforts, as the demand was lying outstanding against the petitioner, that the Assessing Officer got information about the petitioner's bank account and that is when, the bank account was attached after four years of the demand having been raised.

10. Learned Senior Standing Counsel for the respondent-Department further submitted that the petitioner is having an efficacious remedy of appeal before the Appellate Authority.

11. Heard learned counsel for the parties.



12. So far as plea of alternative remedy raised by the Revenue is concerned, we would like to reiterate what we had observed while entertaining the writ petition and granting interim order. We adopt the same reasoning. Reproduction of the relevant part of said order dated 27.03.2026 will be apt, hence, we do so:

“5. Mr. Gaurav Gupta, learned Senior Standing Counsel on the other hand, vehemently argued that the reassessment order was passed way back on 31.03.2022. He added that it is an admitted fact that the petitioner has learnt about the reassessment order on 27.01.2026 having been passed against her and yet took about two months’ time to approach this Court, while the limitation of filing an appeal against a reassessment order is thirty days.

6. Mr. Gupta submitted that there is a series of judgments which postulate that once the limitation for preferring an appeal has passed, no writ can be entertained.

7. He further submitted that it is not a case warranting interference by this Court as the reassessment order had already been passed that too about three years ago.

8. Having heard learned counsel for the parties, we are of the view that maybe there was some non-compliance on the part of the petitioner in not filing return of income after having purchased a property in India or other provisions of law but the requirement of law is, that the principle of Audi Alteram Partem should be adhered to. Any order which has been passed contrary to the principles of natural justice can well be interfered by the High Court under Article 226 of the Constitution of India, as it impinges upon petitioner’s rights guaranteed under Article 14 and Article 300A of the Constitution of India.

9. The petitioner (an NRI woman) may or may not have taken remedies within a period of thirty days from the date of the reassessment order coming to her



knowledge. Because she may have had to collect the requisite documents and order(s) so also consult the counsel to file the appeal or the writ petition before this Court.

10. We feel that from 27.01.2026 until today a period of sixty days has passed, hence the petitioner cannot be alleged to be negligent or indolent towards her rights. The case in hands is required to be dealt with and considered in its own facts, which are quite peculiar as noted hereinabove.

11. That apart, on a look at the impugned order dated 31.03.2012 we find that initially the AO was not sure whether the petitioner has purchased or sold a property worth Rs.22,70,00,000/- and a notice under Section 148 was issued and claimed to have been sent electronically (to which the assessee did not respond). However, in para 4 of such order, he records that the petitioner had purchased property for a consideration of Rs.22,70,00,000/- in Financial Year 2016-17 (Assessment Year 2017-18). We are at a loss to understand that how a purchase consideration can be a long term capital gain? More particularly when Section 69 of the Act of 1961 is not a part of heading 'E' of Chapter IV of the Act of 1961 and it is rather a part of Chapter VI of the Act of 1961.

12. When we were searching from the record that where this demand of Rs.39,63,37,950/- has come from, we found that vide rectification order dated 25.04.2024 passed under the Act of 1961, the initial tax demand which was Rs.11,60,28,795/- has been increased to Rs.37,87,72,200/-. We find that the same has also been raised/enhanced in total disregard of the statutory mandate under Section 154(3), as proper service of the notice issued under section 154 has not been made upon the assessee. In the absence of a validly served notice, the assessee was deprived of their fundamental right to a reasonable opportunity of being heard. It would be apposite to reproduce the relevant part of the



rectification order (Annexure P-3) hereunder:

“Considering the above facts notice u/s 154 was issued to assessee on 26.06.2023 wherein she was provided with an opportunity of being heard on or before 03.07 2023. The notice was also served through Speed Post (ED901719977IN) which was received back to this office with remarks "No Such person". In absence of any response from the assessee to rectify the said mistake which is apparent from records, a rectification order u/s 154 is being passed at the assessed income of Rs. 22,70,00,000/- out of which the amount of Rs. 17,53,57,500/- is taxed as per the provisions of section 115BBE of the IT Act, 1961 and the interest is modified accordingly. Issue necessary form””

13. So far as service of the notice at the Inderpuri, New Delhi address of the petitioner is concerned, we are of the view that no infirmity or illegality can be alleged in the action of the Assessing Officer. An Assessing Officer can serve a notice on the address given on PAN or at the best on the address given on passport. Expecting from the Assessing Officer that he should contact the branch of the bank, with which a person is maintaining its bank account is expecting too much, that too, when the person concerned is an NRI and the bank details are not available with the Department.

14. In relation to an NRI, the service or attempt to serve the notice on the address given at the passport, according to us, is sufficient compliance of law, in normal circumstances.

15. Despite having observed so, we are of the view that the assessment order deserves to be set aside because in any case the petitioner was not heard. The petitioner deserves an opportunity of hearing and putting her case before



the Assessing Officer, as the fact remains that no notice was served upon her.

16. We are, therefore, persuaded to set aside the impugned assessment order dated 31.03.2022, which has been passed as per the best of the judgment of the Assessing Officer, in absence of any reply or response by the petitioner-assessee. The impugned assessment order dated 31.03.2022 is quashed & set aside and the corresponding demand notices and all the proceedings in furtherance thereof, including the penalty orders dated 22.09.2022 (Annexure P-4 & P-5) are also quashed and set aside.

17. It shall be required of the Assessing Officer (Jurisdictional Assessing Officer or Faceless Assessing Officer) to serve a notice upon the petitioner in accordance with law. After service of the notice, the concerned Officer shall take up the proceedings as provided in law, while observing principles of natural justice.

18. The petitioner-assessee shall not be entitled to take a plea of such notice being time barred, as we have held the proceedings to be valid so far as service of notice is concerned.

19. The petition is disposed of. All pending applications are also disposed of.

DINESH MEHTA, J

VINOD KUMAR, J

MAY 19, 2026

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