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

\+ W.P.(C) 13142/2024, CM APPL. 54921/2024, CM APPL.22752/2026 & CM APPL.22753/2026

SARITA GUPTA .....Petitioner

Through: Mr. Chander Kant Tyagi, Adv.

versus

INCOME TAX DEPARTMENT .....Respondent

Through: Mr. Shlok Chandra, SSC with Ms. Naincy Jain, Ms. Madhavi Shukla & Mr. Udit Dad, Advs.

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

O R D E R

% 09.04.2026

1. By way of the present writ petition, the petitioner has challenged the assessment order passed under Section 147 of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*) dated 03.06.2024 *inter alia* on two basic counts:-

i) Before passing the final assessment order under Section 147 of the Act of 1961, the Assessing Officer (AO) has not issued any draft assessment order.

ii) The approval granted by the Principal Commissioner of Income Tax, Delhi-10 (PCIT) *(hereinafter referred to as 'the Competent Authority')* under Section 151 of the Act of 1961 was not in accordance with law.

2. Being *prima-facie* satisfied by the petitioner's first contention, a coordinate Bench of this Court had granted indulgence to the petitioner on

19.09.2024, while observing thus:

> *"1. We take note of the averments made in paragraph 45 of the writ petition in which it has been asserted that no draft assessment order was framed prior to the passing of the final order.*
> *2. It is in the aforesaid context that learned counsel submits that provisions of Section 144B under the Income Tax Act, 1961 have been violated.*
> *3. In view of the aforesaid, let Mr. Chandra, learned counsel*
> *appearing for the respondent, obtain instructions."*

3. Ms. Naincy Jain, learned Junior Standing Counsel at the outset submitted the assertions made by the petitioner are factually incorrect or misconceived inasmuch as the petitioner itself had filed before the Court, the draft assessment order-being Show Cause Notice dated 27.03.2024. She read the entire notice and submitted that this is nothing but a draft assessment order, as is evident from the recital made therein.

4. While highlighting that said notice was received by the petitioner, she argued that the same falls well within the meaning of a draft assessment order, as envisaged under Section 144B of Act of 1961.

5. In relation to the second argument, learned counsel for the petitioner invited the Court's attention towards page 26 of the additional documents filed by the petitioner and underscored that the Principal Chief Commissioner of Income Tax, Delhi (*hereinafter referred to as 'PCCIT*') had simply written words 'Approved. Fit case'.

6. He submitted that such inscription/order/note made by the PCCIT cannot be said to be a proper application of mind for a valid approval, as has been held by this Court in the case of **Capital Broadways Pvt. Ltd. v. Income Tax Officer Ward 5(3) Delhi & Anr.** decided on 03.10.2024, (NC:2024:DHC:7597-DB) in W.P.(C) 4303/2017.

7. In response, Ms. Naincy Jain took the Court through page 26 to 28 of the additional documents and submitted that the Competent Authority had made the following note/remark for approval:

> *"On the basis of reasons recorded by the Assessing Officer and observations of the Addl. Commissioner of Income Tax, I am satisfied that it is a fit case for reopening u/s 148 of the Income Tax Act, 1961."*

8. She submitted that the inscription made by the Competent Authority not only shows proper application of mind but also shows that the approval granted by PCCIT is in accordance with law.

9. In support of her contention, learned counsel cited an order dated 28.02.2025 passed in ITA 25/2022 titled as **Pr. Commissioner of Income Tax Delhi-04 v. M/S Ganesh Ganga Investments Pvt. Ltd** and submitted that after dealing with the **Capital Broadways** (supra), the Division Bench has held that the expression 'Yes, I am satisfied' written by PCIT is sufficient to show application of mind and falls within the ambit of proper approval. In this regard she read the relevant para 13, which we reporduce hereinfra :

> *"13. It is relevant to note that Capital Broadways was concerned with a case where all that the PCIT had chosen to pen was "Yes, I am satisfied". That is clearly not the position which obtains here. Regard must also be had to the consistent position that our Court has taken in this respect and where it has held that it is only where the approving authority merely appends its signature or accords approval treating that exercise to be an empty formality or where it may have failed to discharge the salutary obligation placed upon it and acted as a mere rubber stamp that courts have struck down the approval accorded. Regard must also be had to the fact that while according approval, the PCIT is neither obliged nor expected to pen a detailed order in support of the view expressed by the AO. An approval even if succinctly expressed would suffice provided it is demonstrative of due*

application of mind.”

10. She further submitted that in the instant case, Ms. Jyoti, Chief Commissioner of Income Tax-1, Delhi *(hereinafter referred to as ‘CCIT’)* had written the following note:

> *“In view of the aforesaid facts recommended for kind approval of the draft order u/s l48A(d) of the Act and subsequent issuance of notice u/s 148 of the Act. Submitted for your kind perusal and approval please.”*

11. She further pointed towards the remark of the PCCIT who wrote:

“ “A” m 5/N approved. Fit case.”

12. She submitted that if the notings made by both CCIT and PCCIT are read together, it leaves no room for ambiguity that the approval is valid in eye of law.

13. Having heard learned counsel for the parties, we are of the view that so far as the first issue is concerned that no draft assessment order was served upon the petitioner is factually incorrect and the assessee’s contention is untenable in law.

14. The show cause notice dated 27.03.2024 may not contain the expression ‘draft assessment order’, but a perusal thereof clearly shows that it is nothing short of a draft assessment order. While issuing the notice and calling upon the petitioner-assessee to file its response, the authority issuing the notice had clearly proposed what he proposed to assess and had also clearly indicated that in case no satisfactory reply is given, he shall finalize the assessment order in terms of the proposition/stipulation given in the notice.

15. Section 144B of the Act of 1961 provides for a draft assessment order and the same has to be gathered from the tenor of the notice or proposed

assessment order. The absence of magic word or expression “Draft Assessment Order”, since not prescribed in the Act or Rules, is not even procedural lapse, let alone an error of substance.

16. According to us, the show cause notice dated 27.03.2024 is sufficient compliance of Section 144B of the Act of 1961 and therefore, petitioner’s such ground of attack to the assessment order hardly holds any water.

17. Adverting to the petitioner’s other argument that the approval in question is not in accordance with law, we are of the view that the expression noted by us in para Nos. 10 and 11 particularly the inscriptions noted by the CCIT and the PCCIT that ‘it is a fit case’ is enough reflection of application of mind and the same is indicative of a proper approval.

18. We, therefore, do not find any substance in any of the two arguments advanced for the petitioner.

19. At this juncture, learned counsel for the petitioner submitted that there are various inconsistencies and illegalities in the assessment order as well. We refuse to entertain such aspect, as such exercise is in the nature of fact finding inquiry which cannot be undertaken by this Court in its jurisdiction under Article 226 of the Constitution of India.

20. The petition is thus, dismissed. Pending applications are disposed of accordingly.

21. Since we have considered only the jurisdictional aspect and dismissed the writ petition, we hereby clarify that the petitioner shall be at liberty to file an appeal within a period of thirty days (on the merit of the additions made). In case the appeal is preferred on or before 10.05.2026, the appropriate appellate authority shall consider (only the merit of the

additions/disallowance) in accordance with law, without raising any objection with regard to limitation.

DINESH MEHTA, J

VINOD KUMAR, J

APRIL 9, 2026/*ss*