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

\+ W.P.(C) 8272/2007

GOLDTEX FURNISHING INDUSTRIES

.....Petitioner

Through: Ms. Kanika Sethi, Adv.

versus

UOI & ORS.

.....Respondents

Through: Mr. Shlok Chandra, SSC, Ms. Naincy Jain and Ms. Madhavi Shukla, JSCs and Mr. Udit Dad, Adv.

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

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

% 16.01.2026

1. By way of present writ petition, the petitioner has challenged the notice dated 30.03.2007 under Section 147/148 of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*).

2. While issuing notices, a Coordinate Bench of this Court on 07.11.2007 stayed the proceedings by observing thus :

> *"In the meanwhile there will be a stay of reassessment proceedings since it appears, prima facie, that the notice under Section 147/148 of the Income Tax Act, 1961 has been issued beyond the period of limitation and as a result of the retrospective amendment to Section 80 HHC of the Act, of which the Petitioner was obviously unaware."*

3. Retrospectity given to Section 80HHC of the Act of 1961 has been held to be *ultra vires* by the Gujarat High Court and affirmed by Hon'ble the

Supreme Court in the case of **Commissioner of Income Tax v. Avani Exports** reported in (2015) 232 Taxman 357 (SC).

4. Following the same in W.P.(C) No. 16816/2006 (Saroj Dassani v. UOI), we have held thus :-

> "*5. If the judgment dated 30.03.2015 passed by Hon'ble the Supreme Court in Avani Exports (supra) is read in conjunction with the judgement of the Gujarat High Court dated 02.07.2012, it is clear that the finding recorded in para 26, reproduced hereinabove, was upheld with some alteration in para 27 of the said judgment, that too in favour of the assessees and direction given in para 27 of aforesaid judgment was substituted by the following:*
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> > *"Having seen the twin conditions and since 80HHC benefit is not available after 1.4.05, we are satisfied that cases of exporters having a turnover below and those above 10 cr. Should be treated similarly. This order is in substitution of the judgment in Appeal".*
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> *6. The consequence of the judgment dated 30.03.2015 of Hon'ble the Supreme Court, is that irrespective of the amount involved, the amendment brought in Section 80HHC of the Act of 1961 cannot be given retrospective effect.*"

5. In the light of the judgment of **Avani Exports** (***supra***) Hon'ble the Supreme Court and reasoning given in **Saroj Dassani *(supra)*,** the impugned notice dated 30.03.2007 under Section 148 of the Act of 1961, is hereby quashed. The petition is allowed.

6. Pending applications (if any) are disposed of.

DINESH MEHTA, J

VINOD KUMAR, J

JANUARY 16, 2026/*ss*