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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Reserved on : 15<sup>th</sup> May, 2026****Pronounced on : 29<sup>th</sup> May, 2026**

+ W.P.(C) 15305/2024, CM APPL. 64265/2024

SHAILENDRA NATH RAI

.....Petitioner

Through: Mr. Salil Aggarwal, Sr. Adv. with Mr.  
Madhur Aggarwal, Adv.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 60 (1)  
NEW DELHI AND ANR

.....Respondents

Through: Mr. Puneet Rai, SSC  
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****J U D G M E N T****REPORTABLE****Per DINESH MEHTA, J.**

1. The present writ petition challenge the order dated 30.04.2024 so also the consequential notice of even date issued under Section 148 of the Income Tax Act, 1961 (*hereinafter referred to as the 'Act of 1961'*) on the ground that the proceedings were initiated when they had become time-barred.

2. Mr. Salil Aggarwal, learned senior counsel for the petitioner informed that the first notice being a notice under Section 148A(b) of the Act was issued on 29.03.2024 and argued that since initial time of filing reply of seven days given by the first notice was beyond 31.03.2024, the



proceedings are void. In this regard, learned senior counsel for the petitioners gave relevant dates which are noted hereinunder in tabular form:

DATE	PARTICULARS
29.03.2024	Notice u/s 148A(b) was issued by AO, giving time till 08.04.2024 to file the reply, the initial time so given went beyond 31.03.2024 i.e. beyond period of limitation (not a case of search).
08.04.2024	Request for adjournment.
08.04.2024	Fresh notice of hearing was issued by AO granting time till 12.04.2024.
12.04.2024	The petitioner again sought adjournment.
21.04.2024	Reply was filed by petitioner contending that the impugned reassessment proceedings are barred by limitation as per first proviso to section 149(1) of the Act.
30.04.2024	The order came to be passed by the AO u/s 148A(d) of the Act.
30.04.2024	Notice u/s 148 of the Act was issued by the AO.

3. Learned senior counsel submitted that as per the applicable provisions of the Act of 1961, a notice under Section 148 could be issued within six years of the end of the assessment year and emphasised that the outer limit for issuing notice under Section 148 of the Act of 1961 for Assessment Year (A.Y.) 2017-18 was 31.03.2024 as per the first proviso to Section 149.

4. Taking the Court through the relevant dates, learned senior counsel argued that since at the time of issuing first jurisdictional notice under Section 148A(b) of the Act of 1961, seven days' time was not available or in



other words the notice was issued within seven days of the last day of issuing Section 148 (31.03.2024), not only the notice dated 29.03.2024 issued under Section 148A(b) of the Act of 1961 but also the consequential order passed under Section 148A(d) of the Act of 1961 and notice under Section 148 of the Act of 1961 are time-barred.

5. Hardly had learned senior counsel began his argument when Mr. Puneet Rai, learned senior standing counsel for the respondents interjected and argued that this issue has been decided by this Court in a recent judgment in the case of ***BKR Capital Private Limited v. Income Tax Officer***, [W.P.(C) 19738/2025 decided on 26.02.2026] and argued that in light of the said judgment the writ petition is liable to be dismissed.

6. Mr. Salil Aggarwal, learned senior counsel submitted that he is aware of the judgment rendered in ***BKR Capital Private Limited (supra)*** and placed the said judgment so also the other judgments for perusal of the Court and added that if the facts of the judgment in the case of ***BKR Capital Private Limited (supra)*** are taken into consideration in their correct perspective, then, the same favours the petitioners' point of view.

7. He pointed out that in the case of ***BKR Capital Private Limited (supra)***, the first notice under Section 148A(b) of the Act of 1961 was issued on 21.03.2024 calling upon the assessee therein to file reply by 28.03.2024 and argued that in that case the period of seven days was clearly available to comply with the mandate of sub-section (b) of Section 148A, and therefore, this Court held that the proceedings were valid and legal. Because, the time granted to the assessee for filing the reply is required to be excluded in terms of fifth proviso to Section 149 of the Act of 1961.



8. Learned senior counsel submitted that in the instant case, the notice was issued on 29.03.2024, at which point of time, the Assessing Officer (AO) was aware that he did not have seven days' time at his disposal to comply with the mandate of law. Therefore, the benefit of fifth and sixth proviso cannot be granted to the respondents.

9. Learned senior counsel submitted that if the judgment in the case of ***BKR Capital Private Limited (supra)*** is read in its entirety, more particularly paras 7 and 15, it is clear that this Court has held the proceeding to be valid in facts peculiar to that case.

10. For the sake of ready reference, para 15 of the judgment in the case of ***BKR Capital Private Limited (supra)*** is reproduced hereunder:

*“15. It is not in dispute that, under the then prevailing provisions of Section 149 of the Act of 1961, the normal period for limitation for issuance of notice under section 148 of the Act of 1961 expired on 31.03.2024. It is also not in dispute that prior to such date, the AO had issued notice (on 21.03.2024) under Section 148A(b), calling upon the petitioner to file its reply by 28.03.2024. Therefore, the proceedings were initiated within the limitation period.”*

11. Learned senior counsel relied upon the judgment of Rajasthan High Court in the case of ***Shree Cement Limited v. Assistant Commissioner of Income Tax***, reported in 177 *taxman.com* 535 (Raj), judgment of Bombay High Court rendered in ***Hexaware Technologies Ltd. v. Assistant Commissioner of Income Tax***, reported in 464 *ITR* 430 and the judgment of Hon'ble the Supreme Court in the case of ***Union of India v. Rajeev Bansal***, reported in (2024) 469 *ITR* 46 to buttress his submissions.

12. Mr. Puneet Rai, learned senior standing counsel on the other hand submitted that even if the distinguishing features between the facts of the the



present case and the facts of the case in *BKR Capital Private Limited (supra)* which have been highlighted by Mr. Aggarwal are taken into account, the petitioners' case cannot succeed. He submitted that maybe when the first notice was issued to the petitioner on 29.03.2024, seven days' clear time was not available but an extension of seven days or extension of conditional time given by the AO is to be excluded as per fifth proviso to Section 149 of the Act of 1961 from such date.

13. Learned senior standing counsel in other words submitted that by virtue of fifth and sixth proviso to Section 149, the period of limitation continued and, therefore, it cannot be said that on 30.04.2024, when the notice under Section 148 of the Act of 1961 was issued, the AO was left with no power to issue the notice.

14. Mr. Puneet Rai, learned senior standing counsel read paras 26 and 28 of the judgment in the case of *BKR Capital Private Limited (supra)* and submitted that the proceedings are not time-barred. He relied upon the judgment of this Court in the case of *Raminder Singh v. Assistant Commissioner of Income Tax*, reported in (2023) 156 taxmann.com 148 (Delhi).

15. Heard learned counsel for the parties.

16. Though the facts of the case are handful but they present an interesting and intricate question to be dilated upon. There can be no gainsaying the fact that in the case of *BKR Capital Private Limited (supra)*, the first notice being the notice under Section 148A(b) of the Act of 1961 was issued on 21.03.2024 calling upon the assessee therein to file reply by 28.03.2024. Whereafter, 2-3 adjournments were granted, whereas in the case



in hand, the notice under Section 148A(b) of the Act of 1961 came to be issued on 29.03.2024. Though seven days' time was given, but if the limitation under Section 149 of the Act of 1961 is to be taken into account, the same appears to have elapsed, well within two days of such notice i.e. on 31.03.2024.

17. But what appears to be time barred on the first look, turns out to be a misconception. Because, while providing for the opportunity of hearing to an assessee under clause (b) of Section 148A, the parliament thought it fit to accord an opportunity of minimum seven days and a maximum of 30 days for an assessee to file reply. We are firmly of the view that simply because on 29.03.2024, 7 days' time was not available, the proceeding cannot be alleged to be vitiated. Because 7 days' time is not the maximum time allowable for filing reply. In a given case it can extend to 30 days.

18. According to us, if the intention of the Parliament was not to extend the limitation period for the time elapsed in filing the reply, then they would certainly have provided separate limitation for issuance of notice under Section 148A(b) of the Act of 1961. But instead of doing so, the Fifth proviso has been stringed/appended with Section 149, which stipulates that the time taken for filing the reply shall be excluded from the limitation period. It will not be out of place to reproduce Section 149 with fifth and sixth proviso, which would read as under:

***“Section 149 (As substituted by the Finance Act of 2021)***

***“149. Time limit for notice***

*149. (1) No notice under section 148 shall be issued for the relevant assessment year,—*

*(a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);*

*(b) if three years, but not more than ten years, have elapsed*



*from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of—*

- (i) an asset;*
- (ii) expenditure in respect of a transaction or in relation to an event or occasion; or*
- (iii) an entry or entries in the books of account, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more:*

***Provided*** that no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if [a notice under section 148 or section 153A or section 153C could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of this section or section 153A or section 153C, as the case may be], as they stood immediately before the commencement of the Finance Act, 2021:

***Provided further*** that the provisions of this sub-section shall not apply in a case, where a notice under section 153A, or section 153C read with section 153A, is required to be issued in relation to a search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, on or before the 31st day of March, 2021:

***Provided also*** that for cases referred to in clauses (i), (iii) and (iv) of Explanation 2 to section 148, where,—

- (a) a search is initiated under section 132; or*
- (b) a search under section 132 for which the last of authorisations is executed; or*
- (c) requisition is made under section 132A,*

*after the 15th day of March of any financial year and the period for issue of notice under section 148 expires on the 31st day of March of such financial year, a period of fifteen days shall be excluded for the purpose of computing the period of limitation as per this section and the notice issued under section 148 in such case shall be deemed to have been issued on the 31st day of March of such financial year:*

***Provided also*** that where the information as referred to in Explanation 1 to section 148 emanates from a statement recorded or documents impounded under section 131 or section 133A, as the case may be, on or before the 31st day of



March of a financial year, in consequence of,—  
(a) a search under section 132 which is initiated; or  
(b) a search under section 132 for which the last of authorisations is executed; or  
(c) a requisition made under section 132A,  
after the 15th day of March of such financial year, a period of fifteen days shall be excluded for the purpose of computing the period of limitation as per this section and the notice issued under clause (b) of section 148A in such case shall be deemed to have been issued on the 31st day of March of such financial year:

**Provided also that for the purposes of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice issued under clause (b) of section 148A or the period during which the proceeding under section 148A is stayed by an order or injunction of any court, shall be excluded:**

**Provided also that where immediately after the exclusion of the period referred to in the immediately preceding proviso, the period of limitation available to the Assessing Officer for passing an order under clause (d) of section 148A does not exceed seven days, such remaining period shall be extended to seven days and the period of limitation under this sub-section shall be deemed to be extended accordingly.**

*Explanation.—For the purposes of clause (b) of this subsection, "asset" shall include immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account.*

(1A) Notwithstanding anything contained in sub-section (1), where the income chargeable to tax represented in the form of an asset or expenditure in relation to an event or occasion of the value referred to in clause (b) of subsection (1), has escaped the assessment and the investment in such asset or expenditure in relation to such event or occasion has been made or incurred, in more than one previous years relevant to the assessment years within the period referred to in clause (b) of subsection (1), a notice under section 148 shall be issued for every such assessment year for assessment, reassessment or recomputation, as the case may be.

(2) The provisions of sub-section (1) as to the issue of notice shall be subject to the provisions of section 151”



19. If the facts of the present case are examined, it is clear that on 29.03.2024, the assessee was called upon to file his reply as provided in Section 148A(b) and (c) of the Act of 1961. On 08.04.2024 instead of filing reply, he sought an adjournment and on 12.04.2024, the petitioner sought another adjournment and it was only on 21.04.2024 that the petitioner filed reply, with a plea that the proceedings have become time-barred.

20. We are firmly of the view that in the face of fifth and sixth proviso, which clearly provide that for the purpose of computing the period of limitation, the time or extended time allowed to the assessee as per show cause notice issued under clause (b) of Section 148A is required to be excluded. The period from 29.03.2024 to 21.04.2024 was thus in any event required to be excluded.

21. If argument of Mr. Aggarwal, learned senior counsel for the petitioners is to be accepted, then every notice under Section 148A(b) issued after 1<sup>st</sup> March would be invalid because time for reply may vary from 7 days to 30 days and in each case, the validity of notice under Section 148A(b) would be depending upon an uncertain event of time taken by the assessee in filing reply. Because fifth and sixth proviso requires time taken in filing the reply **by the assessee** (subject to maximum 30 days) **which has** to be excluded. Such interpretation would not only lead to uncertainty but would frustrate the very purpose of a provision which has been introduced to ensure observance of principles of natural justice.

22. A combined reading of fifth and sixth proviso to Section 149 suggests that the time between the date of notice under Section 148A(b) i.e. **29.03.2024** and the date on which the petitioner had filed reply i.e.



**21.04.2024** (as given under fifth proviso) is to be excluded and then, from that date, a period of 7 days is to be taken as per sixth proviso for the purpose of determining the last date of limitation, by which the AO has to pass the order under Section 148A(d) and issue the notice under Section 148 of the Act of 1961.

23. Accordingly, having received reply on 21.04.2024, the AO had only 7 days at his disposal to pass order under Section 148A(d) of the Act of 1961 and to issue notice under Section 148 of the Act of 1961, whereas he has passed the order under Section 148A(d) of the Act of 1961 and issued notice under Section 148 of the Act of 1961 on 30.04.2024 – he has taken 9 days' time to issue notice under Section 148 of the Act of 1961.

24. The notice under Section 148 was required to be issued within maximum of 7 days from the date, when reply was filed i.e. 21.04.2024. The notice could therefore be issued by 28.04.2024, whereas the same came to be issued on 30.04.2024. The impugned notice dated 30.04.2024 is, thus, barred by limitation.

25. The writ petition is allowed. Order under Section 148A(d) and notice under Section 148 of the Act of 1961 both passed/issued on 30.04.2024 are, therefore, quashed, being issued beyond the limitation.

26. All pending applications are disposed of.

**(DINESH MEHTA)  
JUDGE**

**(VINOD KUMAR)  
JUDGE**

**MAY 29, 2026/ck**