CGHC010146622024 2026:CGHC:28260

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No. 79 of 2024

- Satish Thourani S/o Late Shri Mansharam Aged About 52 Years R/o Mm Niwas, 6 Bungalow, Godriwala City, Baba Gelaram Nagar, Opposite Godriwala Dham, Deopuri, Raipur District Raipur Chhattisgarh. 492015

... Petitioner

versus

1. Union Of India Through Secretary, Ministry Of Finance, Department Of Revenue, North Block, New Delhi- 110001. India.
2. Assistant Commissioner Of Income Tax Circle 1(1), Raipur, Office Of Assistant Commissioner Of Income Tax Circle 1(1), Central Revenue Building, Rai02, Rai03, Rai04, Raipur, District Raipur Chhattisgarh 492001
3. Principal Commissioner Of Income Tax, Raipur, Office Of The Principal Commissioner Of Income Tax Circle 1(1), Central Revenue Building, Rai02, Rai03, Rai04, Raipur, District Raipur Chhattisgarh 492001
4. Chief Commissioner Of Income Tax, Raipur, Office Of The Chief Commissioner Of Income Tax Circle 1(1), Central Revenue Building, Rai02, Rai03, Rai04, Raipur, District Raipur Chhattisgarh 492001

... Respondent(s)

For Petitioner	:	Mr. Siddharth Dubey, Advocate
For Union of India	:	Mr. Abhishek Banjare, C.G.C.
For Respondents No. 2 to 4	:	Mr. Ajay Kumarani, Advocate holding the brief of Mr. Amit Chaudhari, Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

08.07.2026

1. The petitioner has assailed a notice issued under Section 148A(b) of the Income Tax Act, 1961(for short "Act, 1961") dated 15.02.2024.

2. Learned counsel for the petitioner would refer Section 148A of Act of 1961. He would contend that the Assessing Officer while exercising power under

Section 148A(a), if he is desirous to conduct any inquiry, he has to accord prior approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment. He would contend that after completion of inquiry notice under Section 148 A(b) of the Act of 1961 can be issued. He would invite attention of this Court to para 3 of Annexure appended to notice, which states that *'in order to conduct inquiry in the case in respect of transactions made as above, necessary approval has been accorded by CCIT, Raipur u/s 148A(a) of the IT Act on 14.02.2024.'* He would submit that as approval was granted by the superior authority i.e. CCIT, Raipur and the next step available to the Assessment Officer was to conduct an inquiry under the provisions of Section 148A(a) of the Act of 1961. He would contend that as no inquiry was conducted, and therefore, the notice issued under Section 148A(b) of Act of 1961 and consequential orders are not competent. He would submit that pursuant to notice issued under Section 148A(b) of the Act of 1961 the Assessment Officer has passed an order under Section 148A(d) of Act of 1961 and further issued notice under Section 148 of Act of 1961. He would pray to quash all the notices as well as the orders issued by the authority concerned.

3. On the other hand, Mr. Ajay Kumrani, Advocate appearing for respondents No. 2 to 4 would oppose. He would submit that the petition is premature as notice under Section 148A(b) of the Act of 1961 has been issued as the Assessment Officer has to conclude preliminary assessment proceedings. He would submit that the petitioner would get sufficient opportunity to defend his case before the respondent authorities. He would submit that petition is misconceived and deserves to be dismissed.

4. Mr. Abhishek Banjare would support the contention made by Mr. Ajay Kumarani.

5. I have heard learned counsel for the parties and perused the documents placed on record.

6. Section 148A(a) & (b) of Income Tax Act, 1961 read as under :-

> "**148A**. Conducting inquiry, providing opportunity before issue of notice under section 148. - The Assessing Officer shall, before issuing any notice under section 148,—
>
> (a) conduct any enquiry, if required, with the prior approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment;
>
> (b) provide an opportunity of being heard to the assessee, with the prior approval of specified authority, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a);"

7. Bare reading of provision quoted-above would make it clear that the Assessing Officer before issuing notice under Section 148 of Act of 1961 may conduct an inquiry after obtaining prior approval of specified authority, if required, and thereafter, may provide an opportunity of hearing to the assessee and notice in this regard may be issued according to the provisions of Section 148A(b) of the Act of 1961.

8. In the present case, notice under Section 148A(b) of Act of 1961 was issued

to the petitioner on 15.02.2024. Clause 3 of Annexure appended to show-cause notice would make it clear that the intention of Assessment Officer was to conduct an inquiry, and therefore, approval from the specified authority was obtained on 14.02.2024. It appears that without conducting any inquiry under the provisions of Section 148A(a) of the Act, 1961, the Assessment Officer issued notice under Section 148A(b) of Act of 1961 and concluded preliminary proceedings and passed an order under Section 148A(d) of Act of 1961 and also issued notice under Section 148. As the Assessment Officer failed to conduct inquiry despite obtaining approval of specified authority, the issuance of notice under Section 148A(b) of Act of 1961 was illegal and bad in law, and therefore, the subsequent proceedings and preliminary order passed under Section 148A(d) of Act of 1961 and notice issued under provisions of IT Act are not sustainable in the eyes of law, accordingly, **quashed**. The matter is remitted back to the Assessing Officer to conduct an inquiry according to the provisions of Section 148A(a) of the Act of 1961, and thereafter, proceed with the matter in accordance with law.

Sd/-
(Rakesh Mohan Pandey)
JUDGE

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