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

% Judgment reserved on*: 15.12.2025*
Judgment delivered on*: 13.04.2026*
Judgment uploaded on*: As per Digital Signature~*

\+ **W.P.(C) 2638/2023**

ABHINAV JAIN .....Petitioner

versus

INCOME TAX OFFICER & ORS. .....Respondents

Advocates who appeared in this case

For the Petitioner : Mr. Rohit Jain and Mr. Samarth Chaudhari, Advocates.

For the Respondent : Mr. Vipul Agrawal, SSC, Ms. Sakshi Shairwal, JSC, Mr. Akshat Singh, JSC, Ms. Harshita Katru and Mr. Gorang Ranjan, Advocates.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

JUDGMENT

V. KAMESWAR RAO, J.

1. This petition has been filed with the following prayers:

"(a) issue a writ and/or order and/or direction in the nature of mandamus/certiorari or any other appropriate writ, order or direction quashing the impugned order dated 07.04.2022 passed by Respondent No.1 under section 148A(d) of the Income Tax Act, 1961 ('the Act'), and the consequent initiation of reassessment proceedings under section 147 vide notice

dated 07.04.2022 issued by Respondent No.1 under section 148 of the Act for the assessment year 2018-19, and all proceedings/ actions consequent thereto including but not limited to the notice dated 20.02.2023 issues by Respondent No.3 under section 142(1) of the Act;

(b) stay the reassessment proceedings initiated under sections 147/148 vide the impugned notice dated 07.04.2022 issued under section 148 of the Act, and/or any other proceedings initiated there under or in consequence thereto, in the matter of the Petitioner for the assessment year 2018-19, during pendency of the present petition;

(c) grant ad-interim ex-parte stay in terms of prayer (b) above;

(d) call for the records of the case from the Respondents;"

FACTUAL BACKGROUND

2. At the outset, we may lay the facts as borne out of the petition. The petition relates to the Assessment Years (AY) 2018-19. For the AY under consideration, the petitioner, *inter alia*, maintained the following bank accounts:

(i) Savings Non-Resident External ('NRE') Account bearing SB–NRE No.015013110007312 with Bank of India, New Delhi ('BOI');

(ii) Savings Account No.0650000100137681 with Punjab National Bank, New Delhi ('PNB').

3. For the AY 2018-19, certain verification queries were generated on the insight portal of the Income Tax Department on account of the petitioner not filing his tax returns for AY 2018-19, in response to which, on 05.02.2019, the petitioner filed his e-response to the verification queries so raised.

4. The details of information purportedly pushed through the Insight

portal and relied upon by respondent No.1 are as follows:-

> *"In this case information under NMS category was pushed through Insight portal that the assessee during the financial year 2017-18 relevant to AY 2018-19 has entered into following transactions as below:*

Information code	*Information Description*	*Source*	*Count*	*Amount Description*	*Amount (Rs.)*
FRM-61B	*Statement of reportable account u/s 285BA(1)*	*Indusind Bank Ltd.*	*1*	*Account balance or value at the end of reporting period*	*0/-*
FRM-15CC(R)	*Statement filed by authorized dealers-receipt of foreign remittance*	*Poonam Jain*	*1*	*Amount of remittance*	*3,75,000/-*
TDS-195	*TDS-Statement payment made to non-resident*	*Bank of India office, New Delhi*	*3*	*Amount paid or credited*	*375/-*
FRM-15CA(R)	*Receipt of remittance by a non-resident or by a foreign company (15CA)*	*Abhinav Jain*	*2*	*Amount payable (INR)*	*4,90,000/-*
TDS-195	*TDS-Statement payment made to non-resident*	*Bank of India NRI*	*1*	*Amount paid or credited*	*15/-*
TDS-194A	*TDS-Statement interest other than interest on securities (Section 194A)*	*UCO Bank Model Town Branch*	*3*	*Amount paid or credited*	*27,872/-*
FRM-15CA(P)	*Remittance to a non-resident or to a foreign company*	*Abhinav Jain*	*2*	*Amount payable (INR)*	*4,90,000/-*
SFT-005	*Time deposits (other than a time deposit made through renewal of another time deposit)*	*Bank of India*	*11*	*Aggregate gross amount paid to the person*	*9,11,07,929/-*

FRM-61B	*Statement of reportable account u/s 285BA(1)*	*HDFC Bank*	*1*	*Account balance or value at the end of reporting period*	*0/-*
FRM-15CC(P)	*Statement filed by authorized dealers-sending of foreign remittance*	*Poonam Jain*	*1*	*Amount of remittance*	*3,75,000/-*
				Total	*9,28,66,191/-*

2. The case has been selected on the basis of NMS category in line with Risk Management Strategy formulated by CBDT. As per records the assessee did not file his return of income for the A.Y. 2018-19 as required under the provisions of Income Tax Act, 1961. The above amount received towards foreign remittance, interest income and time deposits in bank is significant and despite this the assessment year. Looking at the above undisclosed income it is found that despite having taxable income, the assessee has not filed his return of income. As per record no scrutiny assessment has been made in this case for the relevant assessment year. Moreover, this piece of information falls in the category as explained in Explanation 1(i) to Section 148 and suggests that income of Rs.9,28,66,191/- chargeable to tax has escaped assessment. Therefore, it appears to be a fit case to issue notice u/s 148 for AY 2018-19."

5. It can be noted from the above that it was alleged that information under Non-filers Monitoring System (NMS) category was pushed through the insight portal demonstrating that during the financial year relevant to AY 2018-19, the petitioner had entered into certain transactions relating to receipts of various amounts, being in the nature of foreign remittance, interest income and time deposits in banks and despite the fact that transactions pertained to significant amounts giving rise to "taxable

income", the petitioner had not filed his ITR for AY 2018-19.

6. Thereafter, the respondent/Revenue issued a notice under Section 148A(b) of the Act upon the petitioner on 22.03.2022, based on the information of the insight portal. The aforesaid information, it was stated, fell in the category of Explanation 1(i) to Section 148 of the Act and suggested that income to the tune of Rs.9,28,66,191/- being chargeable to tax has escaped assessment and it is a fit case for issuing notice under Section 148 of the Act. The petitioner was provided an opportunity to present his case by 28.03.2022, and justify why a show cause notice under Section 148 of the Act initiating reassessment proceedings should not be issued to him. The petitioner submitted his reply to this show cause notice on 26.03.2022.

7. Thereafter, the respondent no.1 issued two corrigenda to the show cause notice under Section 148A(b), on 31.03.2022 and on 01.04.2022, extending the time limit for furnishing response to the show cause notice issued, till 02.04.2022. Thereafter, an order under Section 148A(d), (impugned order) was passed, initiating reassessment proceedings in the case of the petitioner, on 07.04.2022. The findings of the Assessing Officer (AO), including the table of transactions which we have reproduced above, in the order dated 07.04.2022 are as follows:

> *"Information has been received in accordance with the Risk Management Strategy formulated by CBDT, on Insight Portal maintained by the Income Tax Department, under the head NMS (Nonfilers Monitoring System), that the assessee during the financial year 2017-18 relevant to A.Y 2018-19 has entered into following transaction as below:*

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3. The available information is explicit and clearly suggest that during the relevant previous year, the assessee had income chargeable to tax. As the information was self-sufficient, it was considered that further enquiries u/s 148A(a) of the I.T. Act were not required. Therefore, in accordance with section 148A(b) of the I.T. Act, an opportunity of being heard was provided to the assessee, with prior approval of Principal Commissioner of Income Tax-12, Delhi, vide notice u/s 148A(b) of the I.T. Act with DIN No. ITBA/AST/F/148A(SCN)/2021-22/1041060043 (1) dated 19.03.2022. The said notice was duly served upon the assessee through declared e-mail and also through speed post with tracking ID No. ED 05024320 9IN requiring it to furnish the relevant details along with supporting documentary evidence with respect to the transactions as cited above. Vide the above said notice the assessee was also asked 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 this case for the A.Y. 2018-19.

3.1 Further, a corrigendum was also issued to the assessee on 31.03.2022 informing the assessee that the compliance date mentioned in the show cause notice u/s 148A (b) of the Act dated 19.03.2022 may be read as 02.04.2022 instead of 25.03.2022.

xxx *xxx* *xxx*

5. Thus, in view of the facts and information available with this office (which has already been communicated through opportunity of being heard), it is established that the assessee has no proper explanation for issue discussed above. Moreover, this piece of information falls in category as explained in explanation 1(i) to section 148 of the Act and suggest that income of Rs. 9,83,338/- chargeable to tax has escaped assessment. Accordingly, it is concluded that this is a fit case for issuing notice u/s 148 of the Income Tax Act.

6. This order is being passed with prior approval of the Pr. Commissioner of Income Tax-12, Delhi. Notice u/s 148 of the I.T Act is issued along with this order."

8. Consequently, a notice under Section 148 of the Act, dated 07.04.2022 (impugned notice) was issued to the petitioner and the petitioner was directed to furnish his ITR for the AY 2018-19 within thirty days. The respondent no.3/Revenue, on 13.02.2023, supplied a notice under Section 144B of the Act upon the petitioner, intimating him that the reassessment in his case would be completed in a faceless manner as per the procedure prescribed under Section 144B of the Act. Thereafter, on 20.02.2023, the respondent no.1 issued a notice under Section 142(1) of the Act, (impugned notice) along with a questionnaire, upon the petitioner, directing him to furnish the information/documents related to the issues raised.

9. It is the order under Section 148A(d) dated 07.04.2022 and notice under Section 148 of the Act dated 07.04.2022, followed by the notice under Section 142(1) of the Act dated 20.02.2023, which are impugned before us.

SUBMISSIONS BY COUNSEL FOR THE PETITIONER

10. Mr. Rohit Jain, learned counsel for the petitioner stated that the impugned notices dated 07.04.2022 and 20.02.2023 under Section 148A(d) and Section 142(1) respectively, and impugned order dated 07.04.2022 are wholly without jurisdiction, bad in law, and are liable to be quashed. He has raised various grounds. As per him, there was no escapement of income by the assessee under Section 147 of the Act, which is the fundamental jurisdictional condition to initiate reassessment. The reassessment

proceedings are nothing but a fishing and roving enquiry, and are impermissible in law.

11. For the AY 2018-19, the petitioner qualified as a non resident as per Section 2(3) read with Section 6(1) of the Act and stayed in India for less than 60 days in the financial year 2017-18. The petitioner transferred certain amounts from his savings bank account with PNB to his Non-Resident External Account (NRE) account with BOI. The petitioner earned interest on fixed deposits from BOI and UCO Bank, New Delhi. The petitioner also received amounts upon maturity of his fixed deposit receipts with PNB and in its NRE account with BOI. Due to this, under the belief that the total income of the petitioner was below the maximum amount not chargeable to tax under the Act, the petitioner did not file his income tax return (ITR) under Section 139(1)(b) of the Act for the AY 2018-19.

12. He stated, the respondents in this case are simply trying to assess the income of the petitioner through regular assessment in the garb of reassessment. Pursuant to verification queries being generated on the insight portal of the income tax department, the petitioner duly replied to the same, explaining that the income in his case accrued as interest income from the banks and was below the taxable limits as per the Act.

13. Mr Jain submitted that the response which was a part of the e-verification response sheet dated 05.02.2019 was not considered by the respondent no.1, rendering the entire exercise futile. The respondent no.1 arbitrarily issued the notice under Section 148A(b) of the Act, based on the same information available on the insight portal. The notice alleged that

information under the NMS category demonstrated that the petitioner had entered into certain transactions for the AY 2018-19, for which various receipts in the nature of foreign remittance, interest income and time deposits in the bank were relied upon.

14. He submitted that the petitioner responded to the show cause notice with detailed reasons, stating that the petitioner being a non resident Indian, who was living in Dubai during the relevant year under consideration, was not bound to file his ITR. This fact, as per him, has not even been rebutted or controverted in the impugned order dated 07.04.2022 under Section 148A(d) of the Act and the vital column- Resident/Not Ordinary Resident/ Non-Resident has been left blank. In terms of Section 139(1)(b) of the Act, the petitioner was obligated to file ITR only if *"his total income…… assessable under this Act during previous year exceeded the maximum amount which is not chargeable to income-tax"*. Hence, individuals having total income below the threshold for taxability, are not mandated to file ITR. The threshold for the AY 2018-19 was Rs.2,50,000/-. The petitioner duly explained the amounts received by him on account *"foreign remittance, interest income and time deposits in bank"*, by way of supporting documents *vide* reply dated 26.03.2022 to the 148A(b) notice. An examination of the same would demonstrate that the total receipts of the petitioner partaking the character of income during the financial year (FY) for the AY 2018-19 is barely Rs.62,340/-, which is much below the maximum amount not chargeable to tax under the Act i.e., Rs.2,50,000/- for the AY 2018-19. This fact can also be seen from the ITR accompanying the computation of income, filed by the petitioner under protest as a response to the notice

under Section 148 of the Act. Reliance has been placed by him on the judgment in the cases of ***Angelantoni Test Technologies SRL v. ACIT 2024 463 ITR 139 (Del)*** and ***Nestle SA v. ACIT 417 ITR 213 (Del),*** whereby this Court has decided the teeth of this issue.

15. He further stated that the petitioner had explained the nature and source of all the amounts mentioned in the show cause notice, supported by documents. Since the petitioner is a non-resident, the interest which accrued on time deposits, earned by the petitioner on the NRE account is exempt from tax as per Section 10 (4)(ii) / Section 10 (15) (fa) of the Act. Moreover, even the interest income received in the NRI account was below the taxable limits as prescribed under the Act. He reiterated that the petitioner furnished all the relevant bank statements, tax credit statements in Form No.26AS replies as well as the schedule of total income earned by him during the relevant year. He even submitted all the documentary details including *inter alia,* the copy of the passport and resident permit of UAE of the petitioner, copies of bank accounts of the petitioner, copy of the bank account of the father of the petitioner from whom the amount of Rs. 8,50,00,000/- was received to show that the same was below taxable limit.

16. It is his submission that, primarily three amounts were raised in the notice for which the petitioner's detailed response was submitted and can be summarized as follows:

a) **Rs.3,75,000/-:** This is the same amount for which query was also raised earlier with source being 'Poonam Jain'. It was explained that the said amount was merely an inter-bank transfer entry of the said

amount being received in SB-NRE Account No.015013110007312 on 17.08.2017 from funds lying in PNB Savings Bank Account No.0650000100137681 also belonging to the petitioner.

b) **Rs.4,90,000/-:** No query was raised in respect of this amount earlier since the source was mentioned as 'Abhinav Jain', being the petitioner himself. It was explained that the said amount was also merely inter-bank transfer entry of the said amount being received in SB-NRE Account No.015013110007312 on 28.02.2018 from PNB Savings Account No.0650000100137681, also belonging to the petitioner. The same did not represent any income of the petitioner for the AY 2018-19. It was pointed out that the amount was out of maturity proceeds of small FDRs and other savings in the said PNB account.

c) **Rs.9,11,07,929/-:** This is the same amount for which query was also raised earlier with the source being 'Time Deposits'. It was explained that the aforesaid amount comprised the following three components of the time deposits:

   (i) FDR's of Rs.8,50,00,000/- was received from the petitioner's father, Brijesh Jain (NRI). This amount was received in the BOI SB-NRE Account No.015013110007312 and PAN: AEBPJ1539C. The father of the petitioner, made one Fixed Deposit from his BOI SB-NRE Account No.015013110007310 for a sum of Rs.16,71,45,050/- on 15.03.2012 which was renewed from time to time and finally the closure proceeds of that fixed deposit, including interest accrued thereon, which was credited to his SB-

NRE account on 24.04.2017 for a total sum of Rs.25,50,44,233/-. On 24.04.2017, the petitioner's father (Brijesh Jain) transferred a sum of Rs.8,50,00,000/- each to the petitioner's BOI SB-NRE Account No.015013110007312 and to the BOI SBNRE Account No.015013110007369 of the petitioner's mother Kamini Jain (PAN: AFRPJ0505K). The bank, i.e., BOI, has made a single entry in the account of Brijesh Jain for the transfer of Rs.17,00,00,000/- mentioning the account numbers of the petitioner and his mother in the narration and crediting both accounts for Rs.8,50,00,000/- each.

(ii) FDR of Rs.4,25,000/- made on 17.08.2017 primarily out of Rs.3.75 lakhs

(iii) Tax free accrued interest income of Rs.56,82,929/- till 31.03.2018.

(iv) Hence, the amount of Rs.9,11,07,929/- represents original deposit amount of Rs.8,54,25,000/- (Rs.8,50,00,000 + Rs.4,25,000/-) and Rs.56,82,929/- (interest) accrued till 31.03.2018.

17. It is also his submission that similar proceedings were initiated for the father and mother of the petitioner as well. The details of the same, as provided by the petitioner are as under:

A. <u>Assessment proceedings of Brijesh Jain.</u>

In Brijesh Jain's case, proceedings were initiated *vide* show cause notice dated 19.03.2022 under Section 148A of the Act for the AY 2018-19, for the verification of Rs.9,40,89,186/-. Mr. Jain's submission is that it is the same payer i.e., Brijesh Jain in the present

case and the amount which is the subject matter of the dispute is also same. He stated that the explanations rendered by the petitioner's parents were accepted by the tax department The Jurisdictional Assessing Officer (JAO) passed an order under Section 148A(d) of the Act and accepted the explanation furnished thereby, not proposing initiating of reassessment proceedings thereon.

B. <u>Assessment proceedings of Kamini Jain.</u>

In Kamini Jain's case, notice was issued under Section 148A for the Act of the AY 2018-19. She also filed her response and explained the nature/ source of the amount of Rs.8,50,00,000/- received from her husband. This reply was accepted by the JAO of Kamini Jain thereby, not proposing initiating of reassessment proceedings thereon.

18. In view of the above, he stated that it is trite law that that once a transaction is accepted in the hands of one co-owner, adverse inference cannot be drawn in the respect of the very same transaction in the hands of another co-owner. When the very same transaction of giving of Rs.8.5 crores stands accepted both in the hands of the father (the giver) and the mother (the other receiver), different treatment cannot be meted out to the very same and identical transaction of Rs.8.5 crores paid by the father to the Petitioner. To substantiate this, reliance was placed on the following judgments:-

(i) ***Jaswant Rai v. Commissioner of Wealth-Tax: 107 ITR 477 (P&H),***
(ii) ***Gulab Rai Hanuman Box v. CWT 198 ITR 131 (Gau)***

(iii) ***CIT v. Kumararani Smt. Meenakshi Achi 292 ITR 624 (Mad)***

19. It is further his submission that the show cause notice under Section 148A(b) was issued on 22.03.2022, and provided the time till 26.03.2022, to the assessee, to file his reply to the said notice. This is against the mandate of the provision itself as Section 148A (b) of the Act mandates that a minimum of seven days must be provided to the assessee to file reply to the show cause notice. However, only six days were provided to the assessee to furnish his reply, which he duly did by 26.03.2022, without seeking any extension of time from the Department. He has placed reliance on the following judgments, which hold that minimum seven days should be provided to file the reply to the show cause notice and the date on which the show cause notice is issued has to be excluded in the calculation of days and further interpret the period of '7 days' as provided in Section 148A(b):

(i) ***Pioneer Motors (Private) Ltd. v. Municipal Council, Nagercoil (1961) 3 SCR 609.***
(ii) ***CIT v. Ekbal & co. (1954) 13 ITR 154.***
(iii) ***Suresh Chandra v. Birdi Chand, 1965 SCC OnLine Raj 15.***
(iv) ***Damineni Sangayya v. State of Andhra Pradesh, 1962 SCC OnLine AP 3***
(v) ***Girdhar Gopal Dalmia v. UOI, (2023) 450 ITR 143 (Cal)***
(vi) ***Bijendra Singh v. PCIT, (2025) 478 ITR 493 (Raj).***
(vii) ***Nidhi Bansal v. ITO [2023] 290 Taxman 306 (Del)***
(viii) ***Hardev Singh v. ITO [2022] 140 taxmann.com 67 (Del)***
(ix) ***Srivenkateshwar Tradex (P.) Ltd. v. PCIT [2024] 296 Taxman 76 (Del)***
(x) ***Mukesh J. Ruparel v. ITO [2023] 295 Taxman 475 (Bom)***

20. Mr. Jain has also challenged the proceedings on the ground of limitation. He stated that as per Section 149(1)(a) of the Act, a notice under

Section 148 can be issued upto three years from the end of the relevant AY, which in the present petition relatable to AY 2018-19 would be 31.03.2022. It can only be issued beyond three years upto six years, subject to the satisfaction of the conditions as provided under Section 149 (1)(b). However, the present proceedings have been issued beyond three years as the notice under Section 148 was issued only on 07.04.2022. He further stated that Section 149(1) proviso no. 3 (as it then existed [Act of 2021]), which provides that *"the time allowed or extended time allowed to the assessee as per the show cause notice issued under Section 148A(b) shall be excluded"* and applying the same in the present case would also not bring the proceedings within limitation as even if the six days period from 22.03.2022- 28.03.2022 is excluded from the limitation period, it would extend the limitation period only till 06.04.2022, and the impugned notice under Section 148 being issued on 07.04.2022 would be beyond the limitation period. Even the fourth proviso of Section 148A(b) would not be applicable. It provides that seven days should be provided after such exclusion, to the Department to pass the order under Section 148A(d), which in the present case was not needed as, the reply which was sought to be filed by 28.03.2022, and the limitation period being till 06.04.2022, there were 9 days within which the order under Section 148A(d) could have been passed, however, the same was also passed beyond such limitation period.

21. It is the case of the petitioners that even though corrigenda were issued by the respondents which extended the time allowed to the petitioner to file response till 02.04.2022, the same was wholly erroneous. Firstly, the corrigendum were issued after the life of the notice under Section 148A(b)

dated 22.03.2022 and the reply of the petitioner stood filed on 26.03.2022. Secondly, both the corrigenda were unsigned and hence, were invalid in the eyes of law. Thirdly, no law including the Act, permits ipso-facto corrigenda to be issued as an afterthought to usurp jurisdiction, when it is lost. If such corrigenda are permitted, then that would render the strict time limitations of the Act otiose and would allow the Revenue to usurp jurisdiction illegally. He placed reliance on the judgments in the cases of ***PCIT v. Lionbridege Technologies (P) Ltd. , 2019 260 Taxmann 273*** and ***ACIT v. Vijay Television (P.) Ltd. 2018, 407 ITR 642 (Mad)***, wherein in the context of orders passed under Section 144C(13), it was held that the issuance of corrigendum to correct errors after the period of limitation had expired was defective and ineffective.

22. He stated that the correct specified Authority under Section 151 at the relevant time would be dependent on the date of the issuance of the notice. Based on the above mentioned arguments that since the notice has been issued after three years from the end of the relevant AY, the correct specified Authority to issue the notice would have been the PCCIT/CCIT and not PCIT/CIT. The approval, however, was sought from the PCIT. The failure to obtain sanction from the 'specified authority' in terms of section 151 of the Act, renders the jurisdictional notice under section 148 of the Act, *void ab initio* and untenable in law. He relied upon the following judgments:-

a. ***CIT v. SPL's Siddhartha Ltd. 345 ITR 223 (Del)***
b. ***Yum! Restaurants Asia Pte. Ltd. [W.P.(C) No.614/2014; decided on 31.08.2017] (Del)***

c. ***CIT vs. Soyuz Industrial Resources Ltd. (2015) 58 taxmann.com 336 (Del)***
d. ***Yum! Restaurants Asia Pte. Ltd. vs. DDIT [W.P.(C) No.1353/2013; decided on 31.08.2017] (Del)***
e. ***Bhagwan Sahai Sharma v. DCIT 2025:DHC:3960-DB.***
f. ***Communist Party of India (Marxist) v. Income Tax Department [2025] 174 taxmann.com 325 (Del).***
g. ***Vodafone Idea Ltd. vs. DCIT, 2024:BHC-OS:2100-DB***
h. ***Prakash Pandurang Patil vs. ITO [2025] 177 taxmann.com 552 (Bom) [Dept SLP dismissed @ (2025(178] taxmann.com 8.***
i. ***Agnello Oswin Das vs. ACIT [2024] 161 taxmann.com 16 (Bom)***
j. ***Mrs. Chitra Supekar vs. ITO [2023] 453 ITR 530 (Bom)***
k. ***Ambika Iron and Steel (P.) Ltd. v. Pr. CIT [2023] 452 ITR 285 (Ori.)].***

23. Mr. Jain relied on the Finance Act of 2023 to state that the amendment to Section 151 was made effective from 01.04.2023. Hence, the same would not come to the rescue of the respondents with respect to the argument of the notice being barred by limitation as the amendment is prospective in nature. The respondent No. 1 has not brought on record any material to indicate that he was adopting the exclusions as envisaged by the proviso to Section 149 and the respondents could not have presumed that an amendment would subsequently be made. To Substantiate this argument, he has placed reliance on ***Deloittee Consulting India (P.) Ltd. vs. NFAC [2025] 481 ITR 175 (Tel), Vodafone Idea Ltd. vs. DCIT [2024:BHC-OS:2100-DB] and Prakash Pandurang Patil (supra), Agnello Oswin Das (supra), Mrs. Chitra Supekar (supra), Linkedin Singapore Pte. Ltd. vs. ACIT [2025] 179 taxmann.com 412 (Bom)***.

24. He further submitted that the legislature *vide* Finance Act of 2021 introduced the provision of Section 151A to the Act, which came into force

on 01.04.2021, to remove the face to face interaction between the assessee and the Revenue in the conduct of reassessment proceedings. In exercise of the power under Section 151A, the CBDT *vide* Notification No. 18/2022 dated 29.03.2022 notified 'e-Assessment of Income Escaping Assessment Scheme, 2022', whereby the notice under section 148 can be issued by any officer other than the jurisdictional Assessing Officer selected through automated allocation. If considered in terms of section 144B of the Act, the same can only be done by National Faceless Assessment Centre.

25. He relied upon the budget speech of the year 2021-22 by the Finance Minister and also upon the memorandum of provisions of Finance Bill of 2021 to state the intent/object of Section 148A of the Act was to reduce litigation relating to 'reassessment' insofar as the conduct of pre-notice enquiry and determination, which would result in filtering out of those cases wherein, invocation of powers of reassessment enshrined under sections 147/148 are not, per se, warranted. Hence, in the instant case, the AO was bound to judiciously consider/ appreciate the submission advanced by the petitioner.

26. He also stated that even though the requirement of "reason to believe", as existing prior to Finance Act, 2021, has been substituted with the "possession of information" under the new provisions, the fundamental jurisdictional condition for invocation of powers of reassessment under section 147/148 continues to remain that of "escapement of income" in the hands of the assessee. In the absence of any such 'escapement of income' in the hands of the assessee, resort cannot be had to the provisions of section

147/148 of the Act. As per him, the present case is a test case which ought to have been filtered out of the scope of Section 147/148 of the Act due to the machinery enshrined under Section 148A of the Act. Reliance was placed by him on the following judgments:

a) ***ACIT v. Rajesh Jhaveri Stock Brokers (P) Ltd, 291 ITR 500 (SC)***
b) ***CIT v. Orient Craft Ltd, 354 ITR 536 (Del)***
c) ***Mohan Gupta (HUF) v. CIT, 366 ITR 515 (Del)***
d) ***Madhukar Khosla v. ACIT, 367 ITR 165 (Del)***
e) ***CIT v. Indo Arab Air Services, 283 CTR 92 (Del)***
f) ***Indu Lata Rangwala v. DCIT, 384 ITR 337 (Del)***
g) ***Khubchandani Healthparks (P.) Ltd. v. ITO, 384 ITR 322(Bom)***
h) ***Prashant S. Joshi v. ITO, 324 ITR 154 (Bom)***

27. The impugned order was passed without appreciating or acknowledging that the reply of the petitioner had already been filed on 26.03.2022. Hence, ignoring the explanations and supporting documents furnished by the petitioner, re-assessment proceedings were initiated by issuance of notice under Section 148 of the Act. Even the comprehensive factual details were not considered and the respondent merely reproduced the ingredients of Section 148A to issue the notice under Section 148 of the Act. Additionally, he also stated that even though the aforesaid impugned order under Section 148A(d) of the Act was stated to have been passed obtaining the prior approval of the respondent no.2, the same approval/sanction was not furnished to the petitioner.

28. Mr. Jain also submitted that merely to comply with the impugned notice, without admitting its validity, the petitioner e-filed his ITR on 05.05.2022 accompanied by a protest letter dated 11.05.2022. Pursuant to

the issuance of the Section 148 notice, the petitioner raised many objections, *vide* letter dated 22.05.2022, stating that there has been no escapement of income by the petitioner who qualified as a non resident as per Section 2(3) read with Section 6(1) of the Act. Another objection related to the notice being barred by limitation was also raised along with the approval of the competent authority, the income being below the taxable limit, and procedure prescribed under Section 151A of the Act. It was also objected that in the absence of non filing of ITR, reassessment proceedings could not have been initiated. However, these objections of the petitioner were not disposed of by the respondent no.1. Even the sanction obtained under section 151 of the Act was not provided to the petitioner. Owing to the same, the petitioner was under the impression that the reassessment proceedings against him had been dropped by respondent no.1 upon considering the detailed objections raised there-against. However, on 13.02.2023, the notice under 144B was served upon the petitioner. Thereafter, on 20.02.2023, the respondent no.3 issued a notice under Section 142(1) along with a questionnaire.

29. It is his submission that the perversity in the conduct of respondent no. 1 is further demonstrated by the fact that no enquiry was deemed necessary either prior to issuance of notice dated 22.03.2022 under section 148A(b), or, even after furnishing of reply dated 26.03.2022, clearly demonstrating the inaccuracy of the reasons/ information/ basis adopted by respondent No.1. According to him, a bare perusal of the impugned order under section 148A(d) would demonstrate that instead of being a tentative determination, the same is in the nature of a final conclusion, whereby,

respondent No.1 has already made up its mind regarding the escapement of income in the hands of the Petitioner.

30. He relied upon the judgment of the Supreme Court in case of ***Siemens Ltd. vs. State of Maharashtra (2006) 12 SCC 33***, wherein, the Hon'ble Supreme Court was pleased to exercise its extraordinary writ jurisdiction at the stage of issuance of notice itself, on the reasoning that when a notice is issued with premeditation, a writ petition would be maintainable. In such an event, even if the court directs the statutory authority to hear the matter afresh, ordinarily such hearing would not yield any fruitful purpose. It is evident in the instant case that the respondent has clearly made up its mind.

31. Mr. Jain stated that the respondent, along with this notice under Section 142(1), directed the petitioner to furnish information not just specific to the disputed issues but also on general issues which have no connection with the information basis which the impugned reassessment proceedings were initiated. This was in blatant violation of natural justice and the settled legal principles.

SUBMISSIONS BY COUNSEL FOR THE RESPONDENTS

32. Contesting these submissions, Mr Vipul Agrawal, learned SCC appearing for the Revenue submitted that the petitioner in the present case is approaching this Court in March, 2023 to challenge the reassessment proceedings that were initiated in April 2022. Based on the huge delay alone, the petition should be dismissed.

33. He stated that the AO in this case has initiated the reassessment

proceedings based on the information available with the Department that the petitioner has received amounts of foreign remittance, interest income and time deposits in their bank amounting to a total of Rs.9,28,66,191/- but has failed to file the ITR for the relevant AY. The Department is of the view that amount received is significant and despite which the petitioner had not filed their respective ITR. The specific details of the transactions adding up to the above amount were provided in the said notice as well. It is pertinent to note that the available information was explicit and indicative of the fact that during the relevant previous year, the petitioner had earned /obtained income chargeable to tax. In view of this, the piece of information fell in the category as enumerated under Explanation 1(i) of Section 148 of the Act and suggested that an income to the tune of Rs.9,28,66,191/- chargeable to tax escaped assessment and hence, this was a fit case for issuing notice under Section 148 of the Act. Since the Department considered the information as self sufficient, it was therefore considered that the no further enquires under Section 148A(a) of the Act were required.

34. It is his submission that the petitioner was directed to provide specific details and documents with its reply to the said notice under Section 148A(b) of the Act. The reply filed by the petitioner was perused by the officer and the same was not found tenable in the absence of any explanations provided by the petitioner. Mr. Agrawal stated that as per the petitioner, he received an amount of Rs.8,50,00,000/- from his father on 24.04.2017 in his BOI account. However, as per the information available with the department, the petitioner created an FD amounting to Rs.9,11,07,929/- and as per his reply dated 26.03.2022, in total 10 FD's of

Rs.8,50,00,000/-, totaling to Rs.8,50,00,000/- were created. Another FD of Rs.4,25,000/- was created by him out of the sum transferred from his other bank account maintained with Punjab National Bank. The petitioner also submitted that balance amount of Rs.56,82,929/- (Rs.9,11,07,929 minus Rs.8,50,00,000/- minus Rs.4,25,000/-) is the accrued interest till 31.03.2018. However, the petitioner did not submit any supporting documents in this respect. Further, the bank account statement submitted by the petitioner also did not have any mention of this entry of Rs.56,82,929/- and neither were there any supporting evidence produced by the petitioner to cement their argument. He states that those documents have been filed before this Court at the stage of the rejoinder. However, the same was not filed before the AO. Hence, the case of the petitioner was correctly reopened under Section 147 of the Act.

35. It is further his submission that Section 148 of the Act does not mandate a detailed investigation at the time of issuance of notice under Section 148 of the Act. Continuing from above, the petitioner further stated that the department had granted comparable justifications in the same transaction for the assessee's parents. However, without the supporting documentation, it is impossible to determine the petitioner's ground. It is not possible to determine whether the transactions served as the foundation for the proceedings under section 148A of the Act, as the assessee has not produced any supporting documentation to substantiate his claims. Additionally, it is also to be noted that on the bare perusal of the bank records and documents submitted by the petitioner, there appeared to be inconsistency in the deposits in the petitioner's account and such deposits

did not appear to be continuous. Hence, in the view of the above facts and circumstances, the Department has formidable reasons to determine that there has been an escapement of income by the petitioner.

36. As per him, the argument of the petitioner that he is an NRI is not tenable as no supporting documents have been provided by the petitioner to verify whether the income accrued or received in India would be liable to tax under the Act. In the absence of filing of ITR, the true nature and explanation of the petitioner's transactions cannot be verified. He stated that it is undisputed that the assessee has received Rs. 56,82,929/- as interest on the deposits made in the NRE account. The claim of the petitioner is that such income is exempt as per Section 10(4)(ii) of the Act. This exemption can be availed. However, the same must be subject to certain conditions. The proviso to Section 10(4)(ii) clearly provides that such exemption is available provided the individual is a resident outside India, as defined in clause (w) of Section 2 of FEMA, 1999 or such individual has been permitted by the Reserve Bank of India (RBI) to maintain the aforesaid account. Section 2 Clause (w) of FEMA, 1999 states that *"person resident outside India" means a person who is not resident in India"*. For this, proper documents need to be provided by the petitioner. In case the petitioner has been permitted by the RBI, the same permission was also not furnished by the assessee along with his reply to the show cause notice.

37. Additionally, it is his submission that the details of the passport enclosed by the petitioner along with his reply dated 26.03.2022 revealed that the petitioner had travelled to India in the FY 2017-18. In light of the

same, whether or not the conditions of Section 2(w) of FEMA, 1999 requires a detailed enquiry during the assessment proceedings.

38. The respondents indeed proceeded after due application of mind upon the information available with them. Further, he stated that the notice under Section 148A(b) and the order under Section 148A(d) of the Act are will within the jurisdiction and have been issued after obtaining prior approval from the competent authorities. Even an opportunity of presenting his case was provided to the petitioner by way of the Section 148A(c) of the Act. Since the ITR was not filed by the petitioner then, the transactions undertaken by the petitioner remained unexplained, which was clearly stated in the 148A(d) order.

39. His submission on the aspect of limitation, raised by the petitioner, is that in the absence of any specific challenge to the power of the AO to issue the corrigenda dated 31.03.2022 and 01.04.2022, the time granted by the AO to the petitioner to submit its reply is required to be considered as 02.04.2022. By doing so, the third proviso to Section 149(at the relevant time) would apply and the time period between 22.03.2022- 02.04.2022 would be required to be excluded from the limitation period. This would take the period of limitation to end on 10.04.2022, and hence, the impugned order under Section 148A(d) and impugned notice under Section 148, both dated 07.04.2022, would be clearly within limitation as envisaged by Section 149(1)(a). Since the AO issued the corrigenda within the outer limit i.e. 31.03.2022, the AO was competent to grant additional time to the petitioner to file his reply. It is the petitioner's own case, by relying upon a

catena of judgments that the Department must mandatorily grant 'not less than seven days' to furnish response to Section 148A(b). Hence, the AO has complied with such timeline *suo moto.*

40. He stated that in case of time period required to be excluded as per 3rd proviso to Section 149, a period of 7 days (i.e. 22.03.2022 to 28.03.2022) is required to be excluded and accordingly, impugned order/notice dated 07.04.2022 are required to be deemed to have been passed/issued respectively within the prescribed time limit u/s 149(1)(a). In support of this contention, reliance is placed upon the provisions of Limitation Act, 1963. Section 12(1) of the Limitation Act in respect of institution of any legal proceedings provides as follows:

> *"12. Exclusion of time in legal proceedings —*
>
> *(1) In computing the period of limitation for any suit, appeal or application, the day from which such period is to be reckoned, shall be excluded."*

Whereas Section 14(1) r.w.s. Explanation and Section 15 provide as follows:

> *"14. Exclusion of time of proceeding bona fide in court without jurisdiction. (1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.*
>
> ….
>
> *Explanation.—For the purposes of this section,—*

(a) in excluding the time during which a former civil proceeding was pending, the day on which that proceeding was instituted and the day on which it ended shall both be counted;

….

15. Exclusion of time in certain other cases.—

(1) In computing the period of limitation of any suit or application for the execution of a decree, the institution or execution of which has been stayed by injunction or order, the time of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

(2) In computing the period of limitation for any suit of which notice has been given, or for which the previous consent or sanction of the Government or any other authority is required, in accordance with the requirements of any law for the time being in force, the period of such notice or, as the case may be, the time required for obtaining such consent or sanction shall be excluded.

Explanation.—In excluding the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made, for obtaining the consent or sanction and the date of receipt of the order of the Government or other authority shall both be counted.

….”

41. It is his submission that the third proviso to Section 149(1) is similarly worded and provides for exclusion of time/extended time period which was allowed to the assessee as per notice issued under Section 148A(b). Accordingly, the date of issuance of notice under Section 148A(b) along with the entire time period granted to the assessee to file his response is required to be excluded. In the present case, that would result in exclusion of and accordingly, the impugned order under Section 148A(d) and time

between 22.03.2022 and 02.04.2022 notice under Section 148 are required to be considered within the limitation period as per Section 149(1)(a). This principle has been duly applied by a co-ordinate Bench of this Court while deciding in the case of ***Raminder Singh v. ACIT, Circle 52(1), New Delhi, 2023:DHC:6672-DB***.

42. On the aspect of the approval being from the competent authority, Mr Agrawal stated that the impugned order and notice clearly state that the sanction under Section 151 in the present case was obtained from the PCIT, Delhi-12, which is the specified authority as per Section 151 in case the notice is issued within a period of three years from the end of the relevant AY. By way of the above argument by the application of exclusions provided in the third proviso to Section 149 (1), the impugned notice must be construed to have been issued within 3 years. The deeming fiction in the present case is required to be given its full effect and carried to a logical conclusion. Law must be interpreted in a manner to ensure harmonious construction among various provisions.

43. Further, he stated that even though the amendment had not come into force, the Memorandum to the Finance Bill, 2023 was brought in to clear the above mentioned distinction. The said Memorandum stated the intention of the legislature to introduce a clarificatory amendment. The relevant part of the same is reproduced as under:

> *"9. At the same time, to, ive further clarity with regards to the specified authority a proviso is proposed to be inserted in the section 151 to provide that while computing the period of three years for the purposes of determining the specified authority the period which*

has been excluded or extended as per the provisos in section 149 of the Act from the time limit for issuance of notice under section 148 of the Act shall be taken into account."

44. Mr Agrawal has relied upon the judgment of ***Union of India v. Rajeev Bansal, 2024 SCC OnLine SC 2693*** which has acknowledged the interlinking of the provisions of Section 149 and Section 151. He has also referred to the cases of this Court in ***Twylight Infrastructure Pvt. Ltd. v. ITO Ward 25 3 Delhi and Ors, 2024:DHC:259-DB*** and ***Bhagwan Sahai Sharma (supra).***

45. He stated that the reassessment proceedings in the present case are covered by the notification No.S.O. 1466(F) dated 29.03.2022, the e-Assessment of Income Escaping Assessment Scheme, 2022. This scheme regulates the issuance of the notice under Section 147/148 of the Act through the automation in accordance with the risk management strategy and provides the manner of carrying out the reassessment, being under Section 144B of the Act, i.e. in a faceless manner. Since the cases are selected on the basis of the automation, the same highlights the intent behind the scheme to ensure fairness in the process of issuance of notice. The cases are flagged to the Jurisdictional Assessing Officer (JAO) by the directorate of systems, who has no control over the process. Hence, the JAO has no method/control to know which cases would be allocated to him.

46. At the stage of rejoinder submission, the counsel for the petitioner has submitted that in the re-assessment proceedings of the mother, the AO of the mother was under the superintendence of the same PCIT-12, who is the

respondent no. 2 herein. He further stated that the case of ***Raminder Singh (supra)*** on which reliance has been placed by the respondents is clearly distinguishable on facts since in that case no corrigendum was issued by the AO and it was a clear case where the Section 148A(b) notice was issued within the limitation period and there was no doubt regarding the invocations of exclusion/extension of limitation period envisaged in the proviso to Section 49 of the Act.

47. It has also been contended at the stage of rejoinder submissions by the counsel for the petitioner that the amount transferred to the petitioner from his father Brijesh Jain was a gift and should be exempt from tax as per the provision of Section 56(2)(x) of the Act and the Revenue cannot resort to the provision of Section 147/148 to undertake further examinations in this regard. Reliance has been placed on the judgment in the cases of ***Anil Kumar Ramabhai Patel vs. ITO [2025] 178 taxmann.com 634 (Guj), Inductotherm (India) P. Ltd. (formerly known as Inductotherm India) vs. DCIT [2013] 356 ITR 481 (Guj)*** and ***Onir Infraspace (P.) Ltd. v. ITO [2024] 168 taxmann.com 21 (Guj)]***.

48. To this, Mr. Agrawal stated that the contention of the petitioner about the amount received from the father as a gift was never made, even in the reply dated 26.03.2022. No documentary proof of receiving the amount of Rs. 8.5 crores as a gift was enclosed by the petitioner. The same remains unexplained and is required to be examined in detail during the assessment re-proceedings after necessary enquiries.

ANALYSIS AND CONCLUSION

49. Having heard the learned counsel for the parties and perused the record, at the outset, we intend to deal with the submission of Mr. Jain that the proceedings initiated by the respondents under Section 148 of the Act are beyond the limitation period as prescribed under Section 149(1)(a) of the Act as notice under Section 148 can be issued within three years from the end of the relevant AY, which in the present petition relatable to AY 2018-19 would be 31.03.2022. The notice can be issued beyond three years up to six years, subject to the satisfaction of the condition as provided under Section 149(1)(b) of the Act. The notice dated 22.03.2022 under Section 148A(b) was issued to the petitioner granting him time till 28.03.2022 to file reply. The petitioner had submitted the reply on 26.03.2022. The submission of Mr. Jain is primarily that by excluding 22.03.2022, the period granted to the petitioner is six days and not seven days as mandated under Section 148A(b). Pertinently, the respondents had issued two corrigenda on 31.03.2022 and 01.04.2022 extending the time to submit the reply till 02.04.2022. There is no challenge made in the petition to the corrigenda. In that sense, the period to file reply having been extended till 02.04.2022, by the application of the third proviso to Section 149(1), the time allowed to the assessee to file the reply (eleven days) has to be excluded. As such, the order under Section 148A(d) and notice under Section 148 having been passed and issued on 07.04.2022, shall be within limitation.

50. Even though the minimum period of seven days has not been granted initially, on a conjoint reading of the notice dated 22.03.2022 and the corrigendum dated 31.03.2022, the time to file reply to the notice dated 22.03.2022 has been extended till 02.04.2022. The same has the effect of

correcting the error made by the AO in granting less than seven days to the assessee to file reply, bringing it in conformity with the statute. This we say so, because while granting the initial time to the assessee to file the reply, i.e., till 28.03.2022, the AO has made an arithmetical error, i.e., he took into consideration the date of issuing the notice, i.e. 22.03.2022 while calculating the seven days period. It is the case of the Revenue that the AO noticed this mistake, and by way of the corrigenda attempted to correct the same. When the AO is not precluded from withdrawing the notice dated 22.03.2022 and issuing a fresh notice within the limitation period of 31.03.2022, thereby granting time of not less than seven days to file the reply, he would also have the power to correct his mistake by way of a corrigendum, as long as such corrigendum is issued within the period of limitation period, thus has the effect of correcting the error in the notice dated 22.03.2022.

51. In view of our above conclusion, the plea of Mr. Jain that the order under Section 148A(d) and notice under Section 148 have been passed and issued beyond three years, PCCIT/CCIT are competent to take decision to issue notice would not survive as the PCIT and CIT are competent to issue notice within three years, which has been done in this case.

52. Insofar as the judgments relied upon by Mr. Jain are concerned, in ***Nidhi Bindal (supra)***, the facts are the writ petition was filed challenging the notice dated 19.03.2022 issued under Section 148A(b) of the Act; order dated 30.03.2022 passed under Section 148A(d) of the Act and the impugned notice dated 30.03.2022 issued under Section 148 of the Act by respondent no.1 for the AY 2015-16. The case of the petitioner therein was

that the notice dated 19.03.2022 was in contravention of Section 148A(b) of the Act as it required the petitioner to file reply by 25.03.2022 i.e. within six days despite the fact that Section 148A(b) mandatorily directs the respondents to give a minimum time of seven days to the assessee to file its reply. There is no dispute that the petitioner therein had filed reply on merits on, 29.03.2022, prior to the passing of the order by the respondents. The petitioner contended that the impugned order had been passed without considering the reply dated 29.03.2022 and voluminous documents and evidences filed by the petitioner in response to the show cause notice dated 19.03.2022. Though, this Court had observed that the period granted to file reply to notice under Section 148A(b), the respondents had failed to fulfill the criteria of not less than seven days but the Court had, by noting the fact that the impugned order under Section 148A(d) had been passed after receipt of the reply of the petitioner held that the AO should have considered the reply as the same was available on record. It held that by not considering the reply of the petitioner dated 29.03.2022, the mandate of Section 148A(c) of the Act had been violated as it casts a duty on the AO by using the expression 'shall' to consider the reply of the petitioner/assessee in response to the notice under Section 148A(b) before making an order under Section 148A(d). It was under these circumstances that the Court had set aside the impugned order under Section 148A(d) of the Act and the notice under Section 148 of the Act dated 30.03.2022. In that sense, the notice issued under Section 148A(b) of the Act was not interfered with. Hence, the said judgment is clearly distinguishable in the facts.

53. Similar is the position in the case of ***Hardev Singh (supra)*** wherein

the Court has set aside the order passed under Section 148A(d) of the Act by directing the AO to consider the reply dated 24.03.2022 filed by the petitioner therein.

54. Insofar as the judgment in the case of ***Sri Venkateshwar Tradex Pvt. Ltd. (supra)*** is concerned, the petitioner therein was issued a notice dated 05.03.2023 under Section 148A(b) of the Act with regard to the bogus purchases allegedly made by it from two suppliers. The record shows that the petitioner was called upon to file reply on or before 16.03.2023. That apart, another notice dated 27.03.2023 was issued under Section 148A(b) of the Act whereby the petitioner was called upon to file reply on or before 29.03.2023. It is not in dispute that the petitioner had filed responses to both the notices on 16.03.2023 and 13.03.2023. The AO went on to pass an order under Section 148A(d) of the Act on 31.03.2023. In paragraph 11.1, this Court had held that the minimum statutory time frame provided under the provisions of Section 148A(b) of the Act of filing response is not less than seven days, which in that case, was not clearly provided to the petitioner, the Court held that the statute as indicated above provides a specific time frame and therefore, that leeway would have to be granted to the assessee. In any case, we note that the Court had set aside the notice dated 31.03.2023 passed under Section 148A(d) of the Act.

55. The said judgments are clearly distinguishable inasmuch as in the present case, the respondents issued two corrigenda dated 31.03.2022 and 01.04.2022, extending the time period to file reply to notice under Section 148A(b) of the Act till 02.04.2022. The corrigenda read as under:-

Corrigendum to the Notice issued under clause (b) of section148A of the Income Tax Act, 1961.

1. Please refer to the Show Cause Notice (SCN) issued to you u/s 148A of the Income Tax Act, 1961 on date 22.03.2022 wherein the compliance date as per the notice issued under clause (b) of section148A of the Income Tax Act, 1961 was mentioned as 28.03.2022 to submit your response with supporting documents (if any) on the issues mentioned therein.
2. Now, this corrigendum is issued to clarify that the compliance date as given in above said SCN may be read as 02.04.2022 instead of 28.03.2022 for your response with supporting documents (if any) on the issues mentioned in aforesaid notice.
3. You may, to the extent technologically feasible, submit your response with supporting documents (if any) on the above mentioned issues electronically in 'e-proceeding' facility through your account in efiling-portal at your convenience on or before 02/04/2022.

56. No doubt, the corrigendum dated 01.04.2022 was issued beyond limitation but the first corrigendum having been issued on 31.03.2022, which aspect has not been denied/contested by the petitioner, surely, the infirmity which was there in terms of the notice dated 22.03.2022 in as much as time to file reply beyond seven days till 02.04.2022 was granted. Surely, the same would be valid and in any case, no prayer challenging the corrigendum has been made in the writ petition. Hence, the issue must be proceeded on the premise that the corrigendum issued on 31.03.2022 is valid.

57. Insofar as the reliance by the petitioners in the cases of ***Lionbridge Technologies (Supra)*** and ***Vijay Television Pvt. Ltd. (Supra)*** is concerned, the facts in the cases are entirely different from the facts of the present case inasmuch as the corrigenda in the said cases were issued beyond the limitation period and even on merits, were held to be defective. In fact, in ***Lionbridge Technologies (Supra)***, the Court observed that the Madras High Court in ***Vijay Television Pvt. Ltd. (Supra)*** held that a corrigendum issued

beyond the period of limitation is defective and as such ineffective. Needless to state, such is not the case here.

58. One of the issues raised by Mr. Jain is that the Jurisdictional Assessing Officer ("JAO") could not have issued notice but it should be Faceless Assessing Officer ("FAO"), who is competent to issue the notice. Suffice to state that this Court in the case of ***TKS Builders Pvt. Ltd. v. Income Tax Officer Ward 25 (3) New Delhi, 2024:DHC:8330-DB*** has clearly held that both the officers shall be competent to issue notice. Though the said judgment is pending consideration before the Supreme Court, the same has not been stayed. Hence, for parity of reasons, we must hold that the JAO is competent to issue the notice. This plea of Mr. Jain is also rejected.

59. Even on the merit of the notice, the submission of Mr. Jain can be summed up as under:-

(i) For the AY 2018-19, the petitioner was living in Dubai and was not bound to file his ITR and the petitioner qualified as a non-resident as per Section 2(3) read with Section 6(1) of the Act, and stayed in India for less than 60 days in the FY 2017-18.

(ii) The amounts transferred by the petitioner from the PNB account to his BOI – NRE account and the interest received upon the same were below the maximum amount, not chargeable to tax as per the provisions of the Act. For the AY 2018-19, the threshold for taxability was Rs.2,50,000/-. Since the petitioner had duly

explained the amounts received by him in the nature of foreign remittance, interest income, time deposits by way of supporting documents, the total receipts of the petitioner were only amount to Rs.62,340/-, which is below the amount chargeable to tax.

(iii) Even the interest which accrued on the time deposits in the NRE account are exempt from tax as per Section 10(4)(ii)/Section 10(15)(fa) of the Act.

(iv) The petitioner explained the nature and source of all amounts and furnished bank statements, tax credit statements in form no. 26AS, schedule of total income, copies of the passport and resident permit of UAE, bank accounts of the petitioner and his father etc.

(v) Similar proceedings were initiated for the father and mother of the petitioner and in both their cases, their replies were accepted by their JAO, not proposing initiating of the assessment proceedings therein.

(vi) Based on the same, it is stated that once a transaction is accepted in the hands of one co-owner, adverse inference cannot be drawn in respect of the same transaction in the hands of another co-owner.

(vii) The reply of the petitioner to the show cause notice under Section 148A(b) dated 26.03.2022 was not considered and was mechanically rejected. Even the supporting documents were not taken into consideration and the objections raised by the assessee

vide his letter dated 22.05.2022 were not disposed of by the respondents.

(viii) In the absence of any escapement of income in the hands of the assessee and lack of reasons to believe. The AO cannot resort to the provisions of Section 147/148.

(ix) No enquiries under Section 148A(a) were conducted and the respondent no.1 has already made up his mind with regard to escapement of income by the petitioner. The notice is issued with a premeditation.

(x) Pursuant to the notice under Section 142(1), the respondent directed the petitioner to furnish information also on the issues which have no connection to the information on which the impugned re-assessment proceedings are initiated.

60. On the other hand, the submission of Mr. Vipul Agrawal can be summed up as under:-

(i) The re-assessment proceedings in the assessee's case were initiated in April, 2022, against which the petitioner approached this Court in March, 2023, that is after a huge delay.

(ii) The reassessment proceedings in the case of the assessee are based on the information that the assessee has received a huge amount of foreign remittance, interest income and time deposits to the tune of Rs. 9,28,66,191/-. Despite the same, he failed to file the ITR for the AY 2018-19.

(iii) As the information was provided in the notice under Section 148A(b) of the Act and same fell within Explanation 1(i) of Section 148 of the Act.

(iv) The assessee was asked to provide specific details and documents with his reply to the show cause notice, which he has not submitted.

(v) As per the assessee, he received Rs.8,50,00,000/- from his father in his BOI account. As per the department, he created an FD amounting to Rs.9,11,07,929/-. However, as per the assessee's reply, he created 10 FDs of Rs.8,50,00,000/- each totalling to Rs.8,50,00,000/- and created another FD of Rs. 4,25,000/- out of the sum transferred from the PNB account. Upon this, an interest of Rs.56,82,929/- accrued. The assessee did not furnish any supporting documents in this respect.

(vi) Even the bank account statements submitted by the petitioner did not mention the entry of Rs.56,82,929/-.

(vii) Without requisite documentation, the department cannot ascertain and verify the petitioner's justifications. It is not possible to determine whether the transactions served as the foundation for proceedings under Section 148A of the Act.

(viii) The argument of the petitioner being an NRI is also not tenable as no supporting documents have been provided to verify the same. The permission of the RBI under Section 2(w) of FEMA,1999 has

not been furnished by the assessee to claim exemptions as per Section 10(4)(ii) of the Act.

(ix) Upon perusal of the documents submitted by the assessee, there appears to be some inconsistency. The deposits made by him did not appear to be continuous.

(x) The passport enclosed by the petitioner along with his reply to the show cause notice would reveal that the petitioner travelled to India in FY 2017-18. In view of the same, whether or not the conditions of Section 2(w) are met would have to be examined during the re-assessment proceedings.

(xi) The notice under Section 148A(b) is well within the jurisdiction. Even the approval of the competent authority was taken and the assessee was provided with an opportunity of being heard under Section 148A(c) of the Act.

(xii) The memorandum to the Finance Bill of 2023 clarified the intention of the legislature to introduce an amendment to Section 151, with regard to the proviso to Section 149.

(xiii) The petitioner contended through rejoinder submissions that the amount of Rs.8,50,00,000/- was received from the father as a gift. However, no such plea was taken in the reply to the show cause notice dated 26.03.2022. More so, no documents have been enclosed to explain the same.

61. From the above, it is noted, the attempt of Mr. Jain is to challenge the

notice issued under Section 148 to contend that no income has escaped assessment as the three amounts have been validly explained. His case is that the income generated is not liable to be taxed in India and even interest that has accrued over a period of time is exempted under the provisions of law.

62. On the other hand, the submission of Mr. Vipul Agrawal is only that the petitioner has not produced sufficient documentary evidence in support of his stand. He has gone to the extent of stating that the petitioner has also not produced the permission from the Reserve Bank of India for maintaining the NRE account. In other words, it is his submission that the petitioner is required to satisfy the AO that the amount, which is purported to have escaped assessment is not taxable in India.

63. The amount of Rs.8,50,00,000/- is said to have come by way of a gift from the father of the petitioner and deposited in the BOI NRE account. One of the submissions of Mr. Jain is primarily by relying upon the reassessment proceedings initiated against the father and the mother of the petitioner wherein the similar explanation has been given by the father Sh. Brijesh Jain, and the reassessment proceedings have been closed based on the said explanation. Hence, in that sense, the issue has been explained by the father and the matter having been closed, no further action can be taken.

64. The issue primarily relates to three amounts of Rs.3,75,000/-, Rs.4,90,000/- and Rs.9,11,07,929/-. The justification given by the petitioner on these three amounts are as follows:-

i. The amount of Rs.3,75,000/- is an inter-bank transfer entry received in SB NRE account from the funds lying in PNB savings account belonging to the petitioner.

ii. The amount of Rs.4,90,000/- is also an inter-bank transfer entry received in SB NRE account from PNB savings account of the petitioner.

iii. Insofar as amount of Rs.9,11,07,929/- is concerned, it has two components i.e. (a) FDR of Rs.8,50,00,000/- received from petitioner's father Brijesh Jain (NRI) in the SB NRE account of the petitioner and the interest accrued thereon.

65. It is important to note that the amount of Rs.8,50,00,000/- has been deposited by the petitioner by way of 10 FD's of Rs.85,00,000/- each in NRE account. The opening of the account ought to be pursuant to the permission granted by the Reserve Bank of India (RBI) in terms of Section 10(4)(ii) / Section 10(15)(fa) of the Act. The issue whether the necessary permissions were obtained from the RBI for the petitioner to open an NRE account in BOI would decide the aspect of reassessment of the income which has been initiated by the respondents.

66. The petitioner has not produced before us any such permission granted by the RBI. Such permission becomes relevant as if the amount has been deposited without such permission by the RBI, consequences must follow.

67. Insofar as the other two amounts are concerned, since those are relatively small amounts of Rs.3,75,000/- and Rs.4,90,000/- transferred

intra-bank by the petitioner from his own PNB account to BOI NRE accounts, no interference with the same is called for.

68. The issue with regard to Rs.8,50,00,000/- being received as a gift also becomes relevant as no such stand has been taken by the petitioner in this petition. It is only at the stage of the additional submissions that such a plea has been taken. So, it follows that the petitioner shall be within his right to explain to the AO, the amounts having come from his father and deposited in the NRE account, which has been opened pursuant to the permission granted by the RBI. To that extent, we can say that no such document and other relevant documents have been produced before us to show whether the NRE account has been opened with the permission of the RBI.

69. We find it apposite to highlight the observations of this Court in the case of ***AGR Investment Limited v. ACIT, 2011:DHC:111-DB*** in paragraph 23 has observed as under:-

> *"23. In the case at hand, as we find, the petitioner is desirous of an adjudication by the writ court with regard to the merits of the controversy. In fact, the petitioner requires this Court to adjudge the sufficiency of the material and to make a roving enquiry that the initiation of proceedings under Sections 147 and 148 of the Act is not tenable. The same does not come within the ambit and sweep of exercise of power under Article 226 of the Constitution of India. It is open to the assessee to participate in the reassessment proceedings and put forth its stand and stance in detail to satisfy the assessing officer that there was no escapement of taxable income. We may hasten to clarify that any observation made in this order shall not work to the detriment of the plea put forth by the assessee during the reassessment proceedings."*

70. Hence, appropriate shall be that these aspects shall be looked into by the AO and to that extent, surely, this Court would not act as an AO and call for such documents which otherwise can be done by the AO who can satisfy himself that the necessary permission and documents exist.

71. Though, many judgments have been referred to by Mr. Jain, in view of the facts of this case and also the conclusion drawn above, the same need not be gone into. We are of the view that no interference is called for with the reassessment order and the same is within limitation. It is for the AO to satisfy himself whether the petitioner has produced all the documents during the proceedings, including the aspect whether the amounts have accrued in India and whether the same are exempted from tax.

72. It follows that, the challenge to the reassessment proceedings initiated *vide* order / notice dated 07.04.2022 in respect of AY 2018-19 must fail. We dismiss the petition. Liberty shall be with the petitioner to urge all these submissions as noted above before the AO.

V. KAMESWAR RAO, J

VINOD KUMAR, J

APRIL 13, 2026/*RT*