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

% *Date of decision: 26th February,2026*

\+ W.P.(C) 19738/2025 & CM APPL. 82448/2025

BKR CAPITAL PVT. LTD .....Petitioner
Through: Mr. Mukul Katyal, Adv.

versus

INCOME TAX OFFICER, WARD 4.1., DELHI .....Respondent
Through: Mr. Ruchir Bhatia, SSC with Mr. Anant Mann, JSC.

\+ W.P.(C) 19769/2025 & CM APPL. 82587/2025

RAJMANI SECURITIES PVT LTD .....Petitioner
Through: Mr. Mukul Katyal, Adv.

versus

INCOME TAX OFFICER, WARD 21.1., DELHI .....Respondent
Through: Mr. Sunil Agarwal, SSC with Ms. Monica Benjamin, JSC, Mr. Gibran Naushad, JSC & Mr. Rohit Chakraborty, Adv.

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

J U D G M E N T

REPORTABLE

DINESH MEHTA, J. (ORAL)

1. By way of the instant petitions preferred under Article 226 of the

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Constitution of India, the petitioners allege that the notices under section 148 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act of 1961') which have been issued for Assessment Year (AY) 2017-18 on 15.04.2024, and 06.04.2024 are without jurisdiction, having been issued after the prescribed period of limitation.

2. As both the writ petitions involve identical facts and question of law, they are being decided conjointly. However, the facts of BKR Capital Pvt. Ltd., being W.P.(C) 19738/2025, are being taken into consideration.

3. The petitioner filed its return of income for AY 2017-18 on 29.10.2017, declaring an income of Rs.13,63,270/-. The respondent-Assessing Officer (AO) issued a show-cause notice dated 21.03.2024 to the petitioner for the purpose of reassessment, invoking the provisions of section 148A(b) of the Act of 1961. The aforesaid notice dated 21.03.2024 required the petitioner to file a reply on or before 28.03.2024, on which date, the petitioner requested the AO to grant some time and the matter came to be adjourned to 08.04.2024.

4. On 08.04.2024, the petitioner again sought a week's time to file a reply and the matter got deferred to 13.04.2024, on which date, the petitioner filed a response to the notice dated 21.03.2024. On 15.04.2024, the AO rejected petitioner's objection by way of an order under section 148A(d) of the Act of 1961 and proceeded to issue a notice under section 148 of the Act of 1961.

5. The said notice dated 15.04.2024 has been assailed on the ground of jurisdiction, as according to the petitioner, the limitation for issuing notice under section 148 of the Act of 1961 was over on 31.03.2024. Learned

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counsel for the petitioner argued that since the limitation for issuing notice under section 148 of the Act of 1961 as given under the then prevailing provisions of section 149(1) (1st proviso) was only up to 31.03.2024 (6 years). The impugned notice dated 15.04.2024 is *void ab-initio*, as the AO ceased to have power or jurisdiction to issue notice on such date.

6. In order to bring his argument home, he read the text of section 149 of the Act of 1961, as it stood prior to its substitution w.e.f. 01.09.2024 (by virtue of Finance Act, 2024) and relied upon the judgment rendered by the Hon'ble Rajasthan High Court in **D.B. Civil Writ Petition No.10540/2024** titled ***Shree Cement Ltd. vs. Assistant Commissioner of Income Tax, Central Circle & Ors***.

7. Mr. Ruchir Bhatia, learned Senior Standing Counsel for the respondent in W.P.(C) 19738/2025, on the other hand, submitted that though the facts as narrated by the petitioner are correct and the impugned notice under section 148 of the Act of 1961 appears to have been issued beyond limitation but if the facts in their entirety are taken into account, it can be safely concluded that the time for issuing the notice had not actually lapsed.

8. In this regard, he highlighted that the notice under section 148A(b) of the Act of 1961 was issued on 21.03.2024 requiring the petitioner to file reply on 28.03.2024, which the petitioner did not and on the contrary, he sought an adjournment. And on the subsequent date of hearing (08.04.2024) as well, the petitioner sought further time to file reply, where upon the matter was fixed for 13.04.2024. He submitted that the petitioner's objections were ultimately rejected and upon disposal of the petitioner's representation/reply as required under Section 148A(d) of the Act of 1961,

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the impugned notice under Section 148 of the Act of 1961 was simultaneously issued.

9. He argued that since at the petitioner's own request, the matter was adjourned, by virtue of fifth proviso to Section 149(1) of the Act of 1961, the period between 28.03.2024 to 15.04.2024 is required to be extended. He argued that the petitioner's contention that the notice is barred by limitation is untenable in law.

10. In rejoinder, learned counsel for the petitioner relied upon the judgment of this Court in the case of ***Manju Somani v. Income Tax Officer*** reported in (2024) 165 taxman.com 675 and also submitted that there are a number of judgments of different High Courts supporting the stand of the petitioner.

11. So far as precedent on the issue in hand is concerned, Mr. Bhatia submitted that firstly, the judgment of this Court in the case of ***Manju Somani (supra)*** does not deal with the facts peculiar to this case, more particularly effect of fifth proviso to Section 149 (1) of the Act of 1961. He relied upon judgment of this Court in the case of ***Raminder Singh v. Assistant Commissioner of Income Tax***, (2023) 156 taxman.com 148.

12. Learned counsel for respondent submitted through written submission that Section 149(1) must be read as a whole. The First Proviso cannot be interpreted in isolation from the Fifth and Sixth Provisos. All provisos form part of one composite limitation framework and must be harmoniously construed. In the present case, notice under Section 148A(b) was issued on 21.03.2024, before the bar contemplated under the First Proviso applied. The date of issuance of notice is therefore crucial. The Petitioner's

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contention that only the First Proviso governs the issue is misconceived. Such an interpretation would render the Fifth Proviso otiose or ineffective, which is impermissible in law. It is a settled principle that statutory provisions must be interpreted so as to give effect to every part of the section. The First Proviso merely protects assessees from retrospective enlargement of limitation from six years to ten years. It does not override the statutory exclusion mechanism expressly provided under the Fifth and Sixth Provisos. Accordingly, limitation must be computed by giving effect to all provisos together, and the proceedings are within time.

13. Heard learned counsel for the parties and perused the material available on record. For better appreciation of the issue involved, the relevant statutory provisions, particularly Section 149 as substituted by the Act of 2021 w.e.f. 01.04.2021 and Section 149 of the Act of 2024 (No.1) as substituted by the Finance Act, 2021 w.e.f. 01.04.2021 are reproduced hereunder:-

> ***Section 149 (As substituted by the Finance Act 2021)***
>
> ***"149. Time limit for notice***.
> *(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 asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year:*

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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 such notice 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, 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 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 is less than 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 sub-section, "asset" shall include immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account.

(2) The provisions of sub-section (1) as to the issue of notice

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shall be subject to the provisions of section 151.]

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*

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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:

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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 sub-section, "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 sub-section (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 sub-section (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.

14. The issue which arises for consideration is, whether the notice dated 15.04.2024 issued under Section 148 of the Act of 1961 for AY 2017-18 is

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barred by limitation.

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.

16. Admittedly, the Petitioner did not file its reply within the time originally granted. On 28.03.2024, the petitioner sought an adjournment and the matter was deferred to 08.04.2024, on which date the petitioner prayed for another adjournment and the proceedings were deferred to 13.04.2024. The reply came to be filed on 13.04.2024, whereafter, on 15.04.2024, the AO passed an order under Section 148A(d) and simultaneously issued a notice under Section 148 of the Act of 1961.

17. The scheme of Section 148A and the principles of natural justice enjoins upon the AO to grant reasonable opportunity of hearing to the assessee and to pass an order under Section 148(d) before issuance of notice under Section 148.

18. The proceedings under Section 148A of the Act of 1961 in the present case were undeniably initiated well within limitation on 21.03.2024. The delay occurred because the petitioner sought adjournments. The AO, acting *bonafidely* and in compliance with principles of natural justice, granted reasonable opportunity to the petitioner to file its reply. But equity has no role to play, when it comes to the issue of bar of limitation, hence, the AO cannot invoke any sympathy for being just.

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19. Nevertheless, this Court finds that the notice dated 15.04.2024 is not barred by limitation in face of the first proviso to Section 149(1) of the Income Tax Act, 1961, which clearly postulates that for assessment years beginning on or before 01.04.2021, a notice under Section 148 can be issued only if, on the relevant date, the proceedings had not already become time barred under the old law as it stood prior to the Finance Act, 2021. In the present case, the reassessment proceedings were initiated on 21.03.2024 by issuance of notice under Section 148A(b), which was within the prescribed period of six years for AY 2017–18, i.e., before 31.03.2024.

20. Therefore, on that date, the Assessing Officer had the jurisdiction to proceed under the unamended provisions. The subsequent notice under Section 148 came to be issued on 15.04.2024, after following the mandatory procedure under Section 148A and after considering the reply filed by the petitioner. The time taken in this process, including adjournment(s) sought by the petitioner, does not render the proceedings time barred.

21. The fifth proviso to Section 149(1) of the Act of 1961, as was in vogue at the relevant time, provides for exclusion/extension of time where proceedings are pending and opportunity has been granted to the assessee.

22. Thus, it cannot be said that the notice could not have been issued under the old law due to expiry of limitation. The bar contained in the proviso to Section 149(1) is, therefore, not attracted, and the impugned notice cannot be held to be without jurisdiction on the ground of limitation.

23. Though Fifth Proviso to Section 149 (1) of the Act of 1961, squarely covers the case of the respondents, and even if there is a possibility of another view, it can be safely held that the Assessing Officer can bona fide form an opinion that the time allowed for filing reply would extend the

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period of limitation or will entail exclusion of the time granted under Section 148A(b).

24. The Assessing Officer, having granted adjournments in order to adhere to the principles of natural justice on the basis of bona-fide construction of the Fifth Proviso, cannot be said to have acted in defiance of the prescribed period of limitation.

25. That apart, indulgence was granted and repeatedly extended at the request of the petitioner. The petitioner wilfully availed such benefit and filed its reply on 13.04.2024, that too without raising any objection at that stage alleging that issuance of notice beyond 31.03.2024 is beyond limitation. The plea of limitation has been raised only after the notice dated 15.04.2024 was issued, that too in the present writ proceedings.

26. If petitioner's contention is accepted, then in each case when initial notice under Section 148A has been issued wherein limitation, the AO apprehending that the limitation period might end, would refuse to grant sufficient time to file reply and pass order under Section 148A(C) in a haste. This would defeat the purpose of Section 148A, which is meant to give assessee a fair opportunity to defend its case.

27. The petitioner's reliance on the decision in ***Manju Somani (supra)*** of this Court is misplaced. In that case, the notice was issued beyond the limitation period without any delay being caused by the assessee and the statutory exclusion was neither applicable nor was the same pleaded by the respondents. The facts of the present case are quite different. The proceedings under Section 148A of the Act of 1961 were initiated within time, and the delay occurred only because the petitioner's own requests for adjournments. Therefore, the benefit of exclusion under the proviso to

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Section 149(1) has to be given in accordance with law. The judgment in ***Manju Somani (supra)*** does not apply to the facts of the present case.

28. The petitioner's reliance on the decision of ***Shree Cement Ltd. vs. Assistant Commissioner of Income Tax, Central Circle and Ors.*** in W.P.No. 10540/2024 is also misplaced. In that case, the notice under Section 148A(b) was issued on 31.03.2024, and the final notice under Section 148 was issued on 01.05.2024. This shows that the proceedings were started at the very last moment before the limitation period expired. The Hon'ble Rajasthan High Court, was dealing with a situation where the action was taken right at the verge of the time limit. There was hardly any time left to elicit response under Section 148A(b) and pass order under Section 148A(c) of the Act. In contrast, in the present case, the proceedings were started well before the limitation period ended. The applicability of fifth proviso was neither claimed nor dealt with. Hence, aforesaid decision of Rajasthan High Court is clearly distinguishable.

29. In view of the foregoing discussion, the Court is of the considered view that the Assessing Officer acted within jurisdiction and that the period consumed in granting opportunity under Section 148A(b) stands excluded as per the Fifth Proviso to Section 149 of the Act of 1961.

30. The period between 28.03.2024 and 15.04.2024, during which the matter remained pending on account of adjournments sought by the petitioner, is liable to be excluded in terms of the statutory proviso. Consequently, the notice dated 15.04.2024 cannot be held to be barred by limitation.

31. We are of the view that the impugned notice under Section 148 of the Act of 1961 has been validly issued on 15.04.2024 and the same is within

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limitation. No jurisdictional error is made out.

32. Both the writ petitions are, therefore, dismissed along with all pending applications.

DINESH MEHTA
(JUDGE)

VINOD KUMAR
(JUDGE)

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