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

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Date of Decision : 08.04.2026

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W.P.(C) 4543/2026 CM APPL. 22167/2026 CM APPL. 22168/2026

M/S SUPREME BUILD-CAP PVT. LTD.

.....Petitioner

Through: Mr. Rohit Tiwari, Ms. Kanika Jain
and Mr. Saurabh D. Karan Singh,
Advts.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CENTRAL
CIRCLE (5), DELHI

.....Respondent

Through: Mr. Ruchir Bhatia SSC with Mr.
Anant Mann and Mr. Pratyaksh
Gupta, JSCs.

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MR. JUSTICE VINOD KUMAR

DINESH MEHTA, J. (ORAL)

1. By way of the present writ petition, the petitioner has challenged the assessment order dated 29.03.2026 on various grounds including the basic ground that the initiation of reassessment proceedings by way of the notice dated 30.08.2024 issued under Section 148 of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*) for Assessment Year (AY) 2016-17 was time barred, as the limitation for issuing a notice under Section 148 of the Act of 1961 at the relevant time was only six years.

2. Mr. Ruchir Bhatia, learned Senior Standing Counsel for the respondent-Department at the outset raised an objection regarding



maintainability and submitted that the petitioner has come to this Court against an assessment order and since there is a statutory remedy available, this Court should not entertain the writ petition and relegate it to avail the statutory remedy.

3. Learned counsel for the petitioner-assessee immediately responded to the preliminary objection raised by Mr. Ruchir Bhatia by submitting that during the assessment proceedings, in response to the show cause notice dated 21.03.2026, the petitioner did file a reply and raised a plea of the notice being time barred but the same was not even considered by the Assessing Officer (AO).

4. He further submitted that petitioner's basic challenge to the impugned assessment order is, that the proceedings are time barred in light of judgment of this Court dated 23.07.2024 titled as **Manju Somani v. Income Tax Officer, Ward-70(1) & Ors.** in W.P.(C) 7364/2024, 2024:DHC:5411-DB and since the issue as canvassed goes to the root of the matter, this Court can well exercise its jurisdiction under Article 226 of the Constitution of India in light of the series of judgments passed by Hon'ble the Supreme Court and by this Court.

5. He argued that a simple look at the impugned notice dated 30.08.2024 shows that it is *per-se* beyond prescribed period of limitation and if that impugned notice is declared void and illegal for being beyond limitation, the assessment order shall definitely fall flat on the ground.

6. In response to the petitioner's submission, Mr. Ruchir Bhatia, learned Senior Standing Counsel could not give any satisfactory explanation. He however, submitted that if the petitioner was so aggrieved by the initiation of proceedings, it ought to have approached this Court before an assessment



order was passed.

7. Having heard learned counsel for the parties, we are of the view that the initiation of reassessment proceedings vide notice dated 30.08.2024 is fundamentally void being beyond the prescribed period of limitation. Though the petitioner has approached this Court after suffering an assessment order, however given the fact that the petitioner had raised jurisdictional objection before the AO in its reply and the same remained unheeded and undecided, we are of the view that simply because the proceedings have culminated into an assessment order, the petitioner cannot be made to suffer the agony of an order which is without jurisdiction on the face of it, until the appellate authority does a formal act of annulling it.

8. Requiring the petitioner to take up the formality rather rigmarole of the appellate proceedings when the facts are crystal clear, would be iniquitous in the present factual matrix. We are, therefore, persuaded to allow the present writ petition in light of judgment of Hon'ble the Supreme Court rendered in the case of **M/s Magadh Sugar Mills and Energy Limited vs. The State of Bihar And Others**, reported in **2021 SCC OnLine SC 801**, wherein Hon'ble the Supreme Court reiterated the principles governing the exercise of writ jurisdiction where an alternate remedy exists. The relevant paragraph of the said judgment is reproduced hereinfra:

*“19 While a High Court would normally not exercise its writ jurisdiction under Article 226 of the Constitution if an effective and efficacious alternate remedy is available, the existence of an alternate remedy does not by itself bar the High Court from exercising its jurisdiction in certain contingencies. This principle has been crystallized by this Court in **Whirpool Corporation v. Registrar of Trademarks, Mumbai and Harbanslal Sahni v.***



Indian Oil Corporation Ltd. Recently, in Radha Krishan Industries v. State of Himachal Pradesh & Ors a two judge Bench of this Court of which one of us was a part of (Justice DY Chandrachud) has summarized the principles governing the exercise of writ jurisdiction by the High Court in the presence of an alternate remedy. This Court has observed:

“28. The principles of law which emerge are that:

(i) The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well; (ii) The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person;

*(iii) Exceptions to the rule of alternate remedy arise where (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) **the order or proceedings are wholly without jurisdiction**; or (d) the vires of a legislation is challenged; (iv) An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law;*

(v) When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion; and

(vi) In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be



interfered with.
.....”

(emphasis supplied)

9. This view was further affirmed by Hon’ble the Supreme Court in the case of **Executive Engineer v. Seetaram Rice Mill**, reported in **(2012) 2 SCC 108** wherein, a show cause notice and provisional assessment were issued alleging unauthorized use of electricity under Section 126 of the Electricity Act, 2003, followed by a demand. The assessee questioned the applicability of the provision itself and consequently the jurisdiction of the authority to proceed. The High Court entertained the writ petition, and Hon’ble the Supreme Court, it being a case involving a challenge to the authority’s jurisdiction, upheld such exercise of jurisdiction while observing thus:

*82. It is argued and to some extent correctly that the High Court should not decline to exercise its jurisdiction merely for the reason that there is a statutory alternative remedy available even when the case falls in the abovestated class of cases. It is a settled principle that the courts/tribunal will not exercise jurisdiction in futility. The law will not itself attempt to do an act which would be vain, *lex nil frustra facit*, nor to enforce one which would be frivolous—*lex neminem cogit ad vana seu inutilia*—the law will not force anyone to do a thing vain and fruitless. In other words, if exercise of jurisdiction by the tribunal *ex facie* appears to be an exercise of jurisdiction in futility for any of the stated reasons, then it will be permissible for the High Court to interfere in exercise of its jurisdiction. This issue is no longer *res integra* and has been settled by a catena of judgments of this Court, which we find entirely unnecessary to refer to in detail. Suffice it to make a reference to the judgment of this Court in *Whirlpool Corpn. v. Registrar of Trade Marks [(1998) 8 SCC 1]* where this Court was concerned with the powers of the Registrar of Trade Marks and the Tribunal under the Trade and Merchandise Marks Act, 1958 and exercise of jurisdiction by the High Court in the face of availability of a*



remedy under the Act.

10. In view of the discussion foregoing, the impugned notice dated 30.08.2024 issued under Section 148 of the Act of 1961 so also the consequential assessment order dated 29.03.2026 is hereby quashed.

11. The writ petition stands allowed accordingly.

12. The pending applications stand dismissed.

DINESH MEHTA, J

VINOD KUMAR, J

APRIL 08, 2026/ *dd*