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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 3703/2026 CM APPL. 18074/2026 CM APPL. 18075/2026
CM APPL. 22360/2026 CM APPL. 22363/2026

HARI BHOOMI COMMUNICATIONS PRIVATE LIMITED

.....Petitioner

Through: Mr. Gautam Swarup, Mr. Rudra
Deosthli, Mr. Ankur Das and Ms.
Sakshi Pandey, Adv.

versus

**ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 10 1 &
ORS.**

.....Respondents

Through: Mr. Gaurav Gupta, SSC, Mr.
Shivendra and Mr. Yojit Pareek, JSCs
and Mr. Surya Jindal, Adv.
Ms. Chhavi Khandelwal, SPC for R-3

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MR. JUSTICE VINOD KUMAR

ORDER

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21.04.2026

1. By way of present writ petition, the petitioner has challenged the assessment order dated 25.03.2026, in pursuance of a notice dated 31.03.2025 issued under Second explanation to Section 148 of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*), which was issued on the basis of material recovered during a search conducted at the premises of M/s Kuantum Papers Limited.

2. Mr. Gautam Swarup, learned counsel for the petitioner invited Court's attention towards copy of the order dated 18.02.2026 passed by Punjab and Haryana High Court and pointed out that proceedings in the case of searched



person (M/s Kuantum Papers Limited) have been stayed.

3. He argued that when the proceedings against the person searched have been stayed by the High Court of Punjab and Haryana, *prima facie* finding the search to be illegal, the proceedings initiated by the respondent against the petitioner cannot continue.

4. Learned counsel further argued that strangely enough, the person at whose premises search was conducted is not being proceeded against, whereas, in furtherance of the very same search, the petitioner has been proceeded against and visited with the assessment order.

5. Learned counsel argued that since the search is *prima-facie* illegal, as a natural concomitant, the proceedings against the petitioner are liable to be declared illegal.

6. Mr. Gaurav Gupta, learned Senior Standing Counsel on the other hand, raised a preliminary objection that the petitioner has preferred this writ petition against an assessment order passed under the Act of 1961, which provides a statutory remedy of appeal against such assessment order. He argued that this Court should not interfere in its extraordinary jurisdiction, as the petitioner is having a statutory remedy available to it.

7. While accepting that the proceedings against the searched person came to be stayed by the Punjab and Haryana High Court on 18.02.2026, learned SSC argued that the proceedings against the petitioner were initiated much before and therefore the assessment order which came to be passed after the interim order was granted by Punjab and Haryana High Court, it cannot be said that the proceedings against the petitioner were void or without jurisdiction.

8. Learned SSC further argued that even if it is presumed that Punjab



and Haryana High Court would ultimately quash the search proceedings, then also, the proceedings against the petitioner, cannot be annulled inasmuch as the petitioner is being proceeded with pursuant to material recovered from the searched place or from searched person. He argued that it is so far settled that even if the search is declared invalid or illegal, the material found and recovered during the search can be used as evidence and made basis for assessment.

9. Learned SSC lastly argued that the writ petition is misconceived, even if considered on merits.

10. In rejoinder, learned counsel for the petitioner argued that the respondents have proceeded against the petitioner under Second explanation of Section 148 of the Act of 1961, which is applicable in the contingency of a search and in case the search is declared illegal, the very basis of initiation of proceedings against the petitioner would lose its ground. Consequently, the impugned assessment order and proceedings would fall flat on the ground.

11. Learned counsel for the petitioner, relied upon the following two judgments of Delhi High Court and Bombay High Court:

(i) **Shah E Naaz Judge v. Additional Director of Income-tax (Investigation) and Anr.** reported in 2018 SCC OnLine Del 12720 passed by the Delhi High Court.

(ii) **Echjay Industries Pvt. Ltd. and Ors v. Rajendra, Director of Income-tax (Investigations) and Ors.**, reported in 2024 SCC OnLine Bom 1319 passed by the Bombay High Court.



12. Heard learned counsel for the parties.

13. On a prefatory consideration of the matter, we thought that the matter requires consideration, maybe on equity, because a person at whose place search had been conducted is not facing the assessment proceedings, whereas the petitioner had to face and suffer an assessment order. However, on careful consideration of the matter and statutory provision, we find that the petitioner's writ petition lacks merit.

14. So far as the basic question as to whether the material recovered during the search can be used as an evidence is concerned, the same is well settled, that the material seized/ recovered during search can be relied upon, even if the search is declared illegal.

15. The petitioner's argument based on the interim order granted by Punjab and Haryana High Court is absolutely untenable in law. Grant of interim order is only a *prima facie* view of the matter and until and unless the search is declared illegal and void, one cannot say or claim that the search is illegal. The grant of interim order by the Punjab and Haryana High Court, therefore, does not confer any right upon the petitioner to say that proceedings against him are void.

16. Furthermore, the legality of the initiation of proceedings against the petitioner has to be examined as on the date, when the proceedings were triggered i.e. 31.03.2025. It is important to note that on 31.03.2025 the Punjab and Haryana High Court had not stayed the proceedings even in the case of searched person. Though an interim order came to be passed on 18.02.2026, but that was to the effect of not passing the final order.

17. We are, therefore, of the considered opinion that even if the petitioner's argument is taken into consideration, then also, on the date of



initiation of proceedings (i.e. 31.03.2025) such argument was not even available to the petitioner.

18. The interim order in case of M/s Kuantum Papers Limited was passed on 28.03.2025, a perusal whereof shows that the High Court had not stayed the proceedings but had directed that final assessment order be not passed till the next date of hearing. The order dated 28.03.2025 reads thus:

‘Final assessment order be not passed till the next date of hearing’

19. The interim order was only to the effect of restraining the Assessing Officer from passing final assessment order. Since neither the proceedings nor the effect and operation of the search was stayed, the Assessing Officer in petitioner’s case was justified in proceeding in furtherance of the notice which he had issued to the petitioner on 31.03.2025.

20. We hereby hold that even if the search is ultimately declared to be void against the searched person (M/s Kuantum Papers Limited), the petitioner cannot claim that since the initiation of the proceedings against the petitioner was as per Second explanation of Section 148 of the Act of 1961 and not under the basic provisions of Section 148 of the Act of 1961, the assessment order is void as the search has been declared invalid.

21. According to us, both the contingencies mentioned under Section 148 of the Act of 1961 could have been applied against the petitioner – the Assessing Officer could simply proceed against the petitioner on the basis of the documents which had come to his hands, pursuant to the search taking the same to be made ‘information or material’ or could have proceeded against the petitioner under Second explanation of Section 148 of the Act of 1961 on the basis of said search.

22. We are firmly of the view that simply because there are certain



yardsticks or barriers for issuance of notice under Section 148 of the Act of 1961, which is not available when the Second explanation of Section 148 of the Act of 1961 is to be invoked, the petitioner cannot raise a plea of the notice being without jurisdiction, in light of a subsequent event. The declaration of the search to be invalid (if any) shall be a subsequent event which in our opinion neither divest the Assessing Officer of jurisdiction nor does it vitiate proceedings already initiated against the petitioner.

23. Petitioner's reliance on the decisions in **Shah E Naaz Judge (supra)** and **Echjay Industries (supra)**, in our view, is placed on a fallacious parallel, wherein the Court's intervention was predicated on the invalidity of the search conducted, directly against the searched persons (or the assessee therein). In the instant case, the search was conducted at the premises of M/s Kuantum Papers Limited, while the assessment against the petitioner-assessee was triggered by the recovery of material recovered from the search.

24. Furthermore, in **Shah E Naaz Judge (supra)**, this court was primarily concerned with the absence of "reason to believe" prior to the search and the warrants of authorization was held to be illegal. In the instant case, the proceedings were triggered, in light of recovery of material during a search at the premises of M/s Kuantum Papers Limited.

25. Furthermore, in the case of **Echjay Industries (supra)**, the Bombay High Court quashed the search because the satisfaction note failed to disclose any contingency as contemplated under Section 132(1) of the Act of 1961 and the search was found to be a product of "mere pretence", rendering the search proceedings as invalid. Contrarily, the impugned notice in the present case was issued under second explanation to Section 148 of the Act



of 1961, read with clause (iv) *ibid*. The subsequent interim stay granted to the searched person by the Punjab and Haryana High Court, does not, by itself divests the Assessing Officer of the jurisdiction that was validly exercised on the date of issuance of the notice or annuls his order in any manner.

26. In paragraph 25 of **Echjay Industries (supra)**, the Bombay High Court had clarified that the Revenue remains at liberty to utilize the information or material gathered during the course of such search for making adjustments to an assessee's income in an appropriate proceeding, as is permissible in law. The relevant portion of the judgement is reproduced hereinfra:

“25. Undoubtedly, even though the search is held to be invalid, the information or material gathered during the course thereof may be relied upon by revenue for making adjustment to the Assessee's income in an appropriate proceeding. Though, the Assessee disputes that no new information or material has been gathered by the Revenue in the present case other than what is already available in its books of account, it is clarified that this order does not preclude the Revenue from taking any such proceedings as they may be so advised and to utilise the information or material in such proceeding against the assessee as is permissible in law.”

27. We do not find any merit and substance in any of petitioner's contention. The writ petition is, therefore, dismissed.

28. Needless to observe that the petitioner shall be free to file appeal on the quantum or merit of the additions made in his hands.

29. In case the appeal is preferred within fifteen days from today, the Appellate Authority shall consider the same in accordance with law without



raising any objection about the limitation.

DINESH MEHTA, J

VINOD KUMAR, J

APRIL 21, 2026/ss