18.08.2026
Sl. No. 09
Ct.No.10
Susanta

WPA 23325 of 2025

Chirania Projects Private Limited & Anr.
Vs.
Union of India & Ors.

Mr. Himangshu Kumar Ray,
Mr. Saptak Sanyal,
Mr. Subhasis Podder,
Mr. Shiwani Shaw,
...for the Petitioners.
Mr. Shiv Shankar Banerjee,
Mr. Amit Sharma,
...for the Respondents.

1. The lis in the present Writ Petition pertains to the challenge laid to the Order dated30.06.2025 passed under Section 148A(3) of the Income Tax Act, 1961 (hereinafter referred to as the said Act) and the consequential notice dated 30.06.2025 issued under Section 148 of the said Act for Assessment year 2019-20.

2. The core issue is whether the Assessing Officer is justified in forming a prima facie opinion of escapement of income without adhering to the procedural safeguards under 148A.

3. The Learned Counsel appearing for the petitioner submits that the impugned order suffers from jurisdictional errors as the Assessing Officer travels beyond the scope of the Show Cause Notice dated 26.03.2025 issued under Section 148A(1).

4. It is contended that although a specific prayer for grant of personal hearing has been made in the reply dated 16.04.2025, the same has not been adhered to thereby vitiating the order on the ground of violations of principles of natural justice.

5. It is further submitted that the material information derived from TAS has not been furnished along with the show cause notice and the addition of Rs. 1,45,01,700/- on account of cash deposit has been introduced for the first time in the final Order.

6. On merits, it has been submitted that the amount of Rs. 1,68,00,000/- was received by way of an unsecured loan through proper banking channel and the petitioner has placed on records sufficient documentary evidence to establish the creditworthiness, genuineness and identity of the lender.

7. The petitioner places reliance upon the following judgments as follows:

I. In the case of **Nimesh Maheshbhai Shah (Huf) vs. Income Tax Officer** passed by the High Court of Gujarat reported in **(2025) 476 ITR 236 (Guj),** the relevant paragraphs 41 and 43 are reproduced hereunder:

> "41. *Moreover, from the reasons recorded it appears that the initiation of reopening proceedings are on the borrowed satisfaction as no independent opinion is formed and on bare perusal of the reasons recorded, it*

emerges that the Assessing Officer, considering the information received from the insight portal, has issued the impugned notice forming reasons to believe that the income has escaped assessment on the presumption that the petitioner has been involved in creating non-genuine profit which is already offered to tax in the return of income which is accepted in the regular course of assessment by passing the order under section 143(3) of the Act.

43. Considering the facts of the case, we are of the opinion that the respondent-Assessing Officer could not have assumed the jurisdiction merely and solely relying upon the information made available on the insight portal without forming any independent opinion on the basis of the material on record vis-a-vis the petitioner is concerned."

II. In the case of **Nitin Agarwal vs. Income Tax Officer** passed by the Division Bench of this Court reported in **(2023) 157 taxmann. Com.35 (Calcutta)** the relevant paragraphs 3 and 4 are reproduced below:

"3. Once again, the assessee sought for the relevant documents and liberty to file an additional objection. The reply given by the

assessee on 12.4.23 has not been taken into account in the manner it should have been done, thought the assessing officer refers to the said reply in pages 3 and 4 of the order dated 13.4.23. As pointed out earlier, the notice dated 27.3.23 is not a notice of personal hearing. Therefore, the authority while passing the order impugned in the writ petition has violated the principles of natural justice and inasmuch as the statute also provided that opportunity be granted to the assessee before an assessment is reopened. Therefore, we are satisfied that there has been violation of principles of natural justice and, therefore, the assessee has to be provided an opportunity of personal hearing and also be given liberty to furnish additional documents to support their stand. For the above reasons, the order impugned in the writ petition dated 13.4.23 passed under Section 148A (d) of the Act is directed to be treated as a notice under section 148A(b) of the Act and assessee be directed to file further objection along with supportive documents and on receipt of the further objection and supportive documents, the assessing officer is directed to fix a date for personal hearing to hear the authorized representative of the assessee and pass fresh orders on merits and in accordance with law. The assessee is directed to file their reply within *a period of 30 (thirty) days from the date of receipt of the server copy of this order.*

4. During the course of personal hearing, the petitioner may make a request for supply of any additional document that may be relied upon by the department."

III. The petitioner also places reliance on the Order dated 21.05.2026 being WPA 19538 of 2025 **(Pinnacle Enterprises Pvt. Ltd And Anr. vs Assistant Commissioner of Income Tax-2, Central Circle 4(1), Kolkata and Another).**

8. Per contra, the Learned Counsel appearing for the respondents submits that the impugned order is a reasoned and speaking order passed in strict conformity with the provision of Section 148A. It is further submitted that the findings are based on the petitioner's own document and returns, the question of affording a further personal hearing at the stage of Section 148A(3) does not arise.

9. The substantive opportunity shall be available during the reassessment proceedings.

10. It is submitted that the aggregate income escaping assessment of Rs. 3,13,01,700/- is duly supported by materials on record comprising of unexplained cash credit and unexplained cash deposit and therefore, the formation of belief by the Assessing Officer cannot be faulted.

11. After hearing the rival contention of the parties and upon perusing the records made available this

Court is of the view that the Assessing Officer has complied with the mandatory procedure under Section 148A. The show cause notice has been issued, reply has been invited and a reasoned order has been passed disposing of the objection. The mere fact that an oral hearing has not been granted at this preliminary stage does not ipso facto vitiate the proceedings, especially when a full-fledged opportunity of hearing is contemplated during the reassessment.

12. This Court does not find that the Assessing Officer has travelled beyond the reason recorded in the show cause notice. The amount of Rs. 1,68,00,000/- and Rs. 1,45,01,700/- are intrinsically linked to the information regarding escapement of income and has been considered collectively as income chargeable to tax that has escaped assessment.

13. At the stage of Section 148A (3), the Assessing Officer is only required to form a prima facie opinion. The deeper scrutiny of documents regarding genuineness of loan is a matter to be undertaken during the reassessment proceedings under Section 148 read with Section 147.

14. The Court is of the considered view that the interest of justice would be met by directing the Assessing Officer to afford a meaningful opportunity of hearing to the petitioner during the course of reassessment proceedings, to enable them to rebut the allegations and produce further evidence in support of their case.

15. It is a well settled proposition that personal hearing at 148A (3) stage is not an absolute right. Substantive hearing must be given during reassessment.

16. In view of the above observations the Writ Petition is disposed of with the following directions,

i. The order dated 30.06.2025 passed under Section 148A (3) and the consequential notice under Section 148 are upheld.

ii. The Assessing Officer shall proceed with the reassessment proceedings for assessment year 2019-20 in accordance with law.

iii. The Assessing Officer shall afford a proper opportunity of personal hearing to the petitioner and consider all documents and explanations that may be furnished by them during such proceedings.

iv. All contentions of the parties on merits are left open to be agitated before the Assessing Officer.

17. The writ petition is accordingly disposed of with the above observations and directions.

18. Since no affidavit in opposition has been called for, the allegations contained in the writ petition are deemed to have been denied and not admitted.

19. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Smita Das De, J.)