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

\# **CNR No. DLHC010292572026**

\+ W.P.(C) 9137/2026 & CM APPL 42928/2026

KAPOOR INDUSTRIES LIMITED .....Petitioner

Through: Mr. Sachit Jolly, Sr. Adv. with Ms. Mansha Anand, Mr. Sohum Dua, Mr. Abhyudaya Shankar Bajpai, Ms. Saloni Ray, Mr. Ghunaim Siddiqui, Ms. Yahavi Sharma and Ms. Manvi, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 1 NEW DELHI & ORS. .....Respondents

Through: Mr. Puneet Rai, SSC with Mr. Ashvini Kr., and Mr. Rishabh Nangia, JSCs with Ms. Nancy Jain, Advocate . Mr. Akhil Mittal, Sr. Panel Counsel for UOI/R-3 with Ms. Shayna Das Pattanayak and Ms. Riddhi Jain, Advocates

**CORAM:**
**HON'BLE MR. JUSTICE DINESH MEHTA**
**HON'BLE DR. JUSTICE ADITI CHOUDHARY**

**O R D E R**

% **24.09.2026**

1. By way of the present writ petition, the petitioner has challenged the notice dated 18.06.2026, issued by the Assessing Officer (*hereinafter referred to as the 'Assessing Officer'*) under Section 148 of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*) for Assessment Year (AY) 2024-25.

2. Mr. Jolly, learned Senior Counsel for the petitioner argued that the impugned notice is fundamentally void and without jurisdiction and the same has been issued in colourable exercise of purported powers available with the AO.

3. Inviting Court's attention towards the facts of the case, learned Senior Counsel pointed out that on 12.05.2024 a search was conducted at the premise of Ashish Kapoor (Director of the petitioner company), and in furtherance of warrant of authorization, an amount of Rs.17,66,50,000/- in cash was found in lockers belonging to Ashish Kapoor and one Shakun Tamang.

4. He submitted that as a sequitur of the search, searched person (Ashish Kapoor) so also of the petitioner company was centralised vide order dated 04.10.2024 of the competent authority.

5. Learned Senior Counsel submitted that after the search was over, Ashish Kapoor had made a statement/disclosure that said amount of ₹17,66,50,000/- belonged to Kapoor Industries Limited being part of its sale proceeds. He also submitted that such amount was not only disclosed by the petitioner company (as cash sales) while furnishing its return of income, but had also offered the same to tax and added that the petitioner had even prayed that said amount lying seized with the Department be treated as its self assessment tax or adjusted against tax liability.

6. Learned Senior Counsel further submitted that petitioner's

return of income was processed under Section 143(1) of the Act of 1961 and the income as per return was processed/accepted as such, but the credit or the adjustment of self-assessment tax was not given, for which, the petitioner preferred appeal which was though rejected by the CIT(A), but ultimately, the Income Tax Appellate Tribunal *(hereinafter referred to as 'the Tribunal')* accepted its further appeal and per-viam order dated 31.10.2025, accepted petitioner's plea and directed the AO to refund the amount of ₹17,66,50,000/- after adjusting the total tax liability.

7. Learned Senior Counsel also submitted that in the meantime, scrutiny assessment of the Director of the petitioner company, namely, Ashish Kapoor was also completed by way of order dated 27.03.2026 passed under Section 143(3) of the Act of 1961, during which not only was a questionnaire issued to him but a notice also came to be issued to the petitioner company under Section 133(6) of the Act of 1961 and after being satisfied, the very same AO (Mr. Chandan Kumar Srivastav), who has issued the impugned notice, unequivocally agreed with the plea of the assessee-Ashish Kapoor that subject amount of ₹17,66,50,000/- belong to the petitioner (Kapoor Industries) and accepted his returned income.

8. Learned Senior Counsel thus argued that the impugned notice, which has been issued by the very same AO despite having accepted the factum of Rs.17,66,50,000/- belonging to the

petitioner company and the amount having been offered to tax, with the allegation that income to the tune of Rs.17,66,50,000/- has escaped assessment in petitioner's hands, is not only misconceived and without application of mind but also without jurisdiction.

9. He argued that when the very same amount has admittedly been accepted as belonging to the petitioner and has been admitted by the very same Officer while framing the assessment of Ashish Kapoor, how can the same amount now be alleged to be income that has escaped assessment?

10. He argued that, inspite of all the facts being known to the AO, he has issued the notice, simply with a view to harass the petitioner and conduct a fishing and roving inquiry, apparently in order to avoid the payment of refund pursuant to the directions given by the Tribunal.

11. Mr. Puneet Rai, learned Senior Standing Counsel for the Department, on the other hand, submitted that impugned notice is not a usual notice under Section 148 of the Act of 1961 and it is rather a notice issued pursuant to a search, during a regime in which notice under Section 153C was not required to be given. And therefore, the jurisprudence relating to the reassessment proceedings *stricto-sensu* shall not apply to the proceedings in hands.

12. He argued that maybe the AO has accepted the fact that the

subject amount belongs to the petitioner but such fact by itself is not conclusive, because whether the same has resulted in or correctly offered as income by the assessee or whether the petitioner's assertion regarding cash sale is factually correct or not is a matter of scrutiny and within the domain of the AO.

13. Heard learned counsel for the parties.

14. We are not oblivious of the legal position that the proceedings in question relate to Assessment Year 2024-2025, during which, in furtherance of the search, a notice under Section 153C was not required and the AO could directly issue notice under Section 148 of the Act of 1961, without following the procedure under Section 148A(1) of the Act of 1961.

15. Still, the facts in hands are slightly different, rather startling. In the instant case, the cash amount had been offered by said Ashish Kapoor, as belonging to the petitioner company and the petitioner company by filing its return of income on 28.10.2024 had offered said amount as income (cash sales) and at the same time prayed that the amount lying seized with the Department, be adjusted as self-assessment tax or against the tax liability. The Tribunal, being the final fact finding authority has accepted petitioner's plea and directed the AO to treat the same as self assessment tax of the petitioner and refund the amount after adjusting the total tax liability of that year.

16. Such being the position, the fact that the amount of ₹17,66,50,000/- belong to Kapoor Industries Limited has not only been found by the Tribunal but has also been accepted by none other than this very AO himself, while framing the assessment of said Ashish Kapoor as recently as on 27.03.2026.

17. Such being the position, now taking the plea, that though this amount belongs to Kapoor Industries Limited but still the income to the tune of Rs.17,66,50,000/- has escaped assessment, and treating this amount as deemed information in terms of Explanation 2(iii) of Section 148 of the Act of 1961 and alleging it to be income escaping assessment, simply because petitioner’s assessment was made under Section 143(1) of the Act of 1961 cannot be countenanced.

18. The fact that such a huge cash amount of Rs.17,66,50,000/- was seized, was very much known to the AO so also was the fact that it belonged to the petitioner. Hence, to call it to be an information or material found during the search to resort to Section 148 of the Act of 1961 after 2 years of the search, raises a serious question on the working of the respondents. One fails to understand that why did the AO not take up the petitioner’s case for assessment, when its case had been centralised? More so, when the searched person was none other than director of the petitioner company and he had attributed said huge amount of

Rs.17,66,50,000/- lying in his locker to the petitioner company as its cash sales. That apart, the impugned notice neither makes a reference of the cash so seized nor does it contain any assertion of existence of jurisdictional fact, to assume jurisdiction.

19. Matter requires consideration.

20. Issue notice. Mr. Puneet Rai, learned Senior Standing Counsel accepts notice and prays for and is granted six weeks' time to file reply. Rejoinder be filed within four weeks, thereafter.

21. Meanwhile, proceedings in furtherance of the impugned notice dated 18.06.2026 issued under Section 148 of the Act of 1961 shall remain stayed.

22. List this case for final hearing on 15.12.2026.

**DINESH MEHTA, J.**

**ADITI CHOUDHARY, J.**

**SEPTEMBER 24, 2026**
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