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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC010484552026
+ **W.P.(C) 14875/2026 & CM APPLs. 69666/2026, 69667/2026**
INDOFIL INDUSTRIES LIMITEDPetitioner

Through: Mr. Sachit Jolly, Senior Advocate
with Ms. Mansha Anand, Mr. Sohum
Dua, Mr. Abhyudaya Shankar Bajpai,
Ms. Saloni Ray, Mr. Shunaim
Siddiqui, Ms. Yahavi Sharma and Ms.
Manvi, Advocates

Versus

**DEPUTY COMMISSIONER OF INCOME TAX CENTRAL
CIRCLE 14 & ANR.**Respondents

Through: Mr. Indruj Singh Rai, SSC with Mr.
Sanjeev Menon, Mr. Rahul Singh and
Ms. Priya Sarkar, JSCs. with Mr.
Gaurav Kumar and Mr. Prateek Bhati,
Advocates

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

ORDER
07.10.2026

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1. By way of the present writ petition, the petitioner has challenged the notice dated 31.03.2026 issued under Section 148A(1) of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*); the order dated 29.06.2026 issued under Section 148A(3) and the consequential notice of even date issued under Section 148 of the Act of 1961 for Assessment Year (AY) 2021-22.
2. Mr. Sachit Jolly, learned Senior Counsel appearing on behalf of the



petitioner submitted that in furtherance of a search, the petitioner's assessment for AY 2020-21 was made under Section 153C read with Section 143(3) of the Act of 1961 on 31.03.2023, during which an amount of Rs.4,31,28,225/- being payment to M/s KKM Management Centre Middle East (FZE) was disallowed, on the allegation of the same being towards bogus purchases.

3. He submitted that later on, a notice dated 31.03.2026 came to be issued under Section 148A(1) of the Act of 1961, whereby the Assessing Officer (*hereinafter referred to as the 'AO'*) initiated reassessment proceedings alleging that expenses/payment of Rs.1,91,50,000/- made to M/s KKM Management Centre Middle East (FZE) deserved to be disallowed, as no deduction of tax was made as per Section 40(a)(i) of the Act of 1961.

4. The basic argument advanced by Mr. Jolly has been that once the entire payment made to the said entity has been disallowed, any disallowance made out of such amount would lead to double taxation. He added that this plea was taken in the reply which was filed before the AO and having accepted such position, the AO has rejected petitioner's objections and passed the impugned order under Section 148A(3) of the Act of 1961, observing that this time he is seeking to disallow the expenditure on the ground of non-deduction of tax and since the petitioner has preferred an appeal against the disallowance of the payment made to said M/s KKM Management Centre Middle East (FZE), being the bogus purchase, the present issue being a fresh reason and ground justifies the limitation of the proceedings under challenge.

5. Mr. Jolly argued that the fundamental question which he seeks to



canvass and prays to be determined or decided in the present case is, whether in the absence of jurisdictional fact of any income escaping assessment, whether the AO can justifiably invoke provisions of Section 148 of the Act of 1961.

6. Mr. Rai, learned Senior Standing Counsel, on the other hand, argued that the issue as to whether the amount on which applicable tax had not been deducted should be disallowed as provided under Section 40(a)(i) of the Act of 1961 was not examined by the AO, while framing the assessment under Section 153C read with Section 143(3) of the Act of 1961 (on 31.03.2026) and therefore, the AO is legally justified in proceeding with the matter. He added that the petitioner may succeed in his appeal which is pending before the Appellate Authority, but the AO's right to disallow part of the total disallowance made on additional ground [Section 40(a)(i) of the Act of 1961] cannot be taken away. And since such aspect of the transaction had not been examined, the AO was legally correct in proceeding against the petitioner.

7. Having heard learned counsel for the parties, we are of the *prima-facie* view that since the total payment of Rs.4,31,28,225/- had already been disallowed, there remains no income which has escaped assessment. The jurisdictional fact of income escaping assessment appears to be absent and hence, the AO cannot assume jurisdiction or invoke Section 148 of the Act of 1961.

8. Matter requires consideration.

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



10. Till then proceedings in furtherance of the impugned notice dated 29.06.2026 issued under Section 148 of the Act of 1961 shall remain stayed.
11. List this case for final hearing on 02.02.2027.

DINESH MEHTA, J.

ADITI CHOUDHARY, J.

OCTOBER 7, 2026/p'ma