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

\+ **W.P.(C) 562/2025**

RAKESH MAHAJAN .....Petitioner

Through: Mr Sumit Lalchandani, Mr Utkarsh Gupta and Ms Ananya Kapoor, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE 4, DELHI & ANR. .....Respondents

Through: Mr Sunil Aggarwal, SSC, Mr Shivansh B Pandya, Mr Viplav Acharya, JSCs and Mr Utkarsh Tiwari, Advocate.

Mr Abhishek Yadav, SPC for UOI/R2

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

O R D E R

% **16.01.2025**

CM APPL. 2662/2025(Exemption)

1. Exemption is allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 562/2025 & CM APPL. 2661/2025(Stay)

3. The petitioner has filed the present petition, *inter alia,* impugning a notice dated 13.06.2024 (hereafter *the impugned notice*) issued under Section 148 of the Income Tax Act, 1961 (hereafter *the Act*). In addition, the petitioner also challenges the constitutional validity of the Explanation 2 to the Section 148 of the Act.

4. The petitioner challenges the impugned notice on two grounds. Firstly, in terms of the proviso to Section 149(1) of the Act, the notice under Section 153A of the Act could not have been issued. This assertion is premised on the basis that the time period for making the assessment under

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Section 153A of the Act, as stipulated under Section 153B of the Act, has expired.

5. The second ground on which the impugned notice is challenged is that the assessment year (AY) 2014-15 is beyond the period of ten years, which could be covered under Section 153A of the Act.

6. The learned counsel for the petitioner has handed over a tabular statement indicating that the AY 2014-15 is beyond the period of ten years. The said tabular statement is set out below: -

Date of Issuance of notice under Section 148 of the Act – 13.06.2024 (AnnexureP-1)	
AY 2025-26	1
AY 2024-25	2
AY 2023-24	3
AY 2022-23	4
AY 2021-22	5
AY 2020-21	6
AY 2019-20	7
AY 2018-19	8
AY 2017-18	9
AY 2016-17	10
AY 2015-16	Beyond 10 years
AY 2014-15	Beyond 10 years

7. In so far as the petitioner's contention that the AY 2014-15 is beyond the period of ten years that could be covered by a notice under Section 153A of the Act is concerned, the same is unmerited. The issue is covered by an earlier decision of this court in ***The Pr. Commissioner of Income Tax - Central-1 v. Ojjus Medicare Pvt. Ltd: Neutral Citation: 2024:DHC: 2629-DB.***

8. The period of ten years is required to be reckoned from the end of the

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assessment year relevant to the financial year in which year the search was conducted. In the present case, the search was conducted on 20.07.2022, that is, during the financial year 2022-23. Thus, the relevant assessment year, would be AY 2023-24. If the period of ten years is reckoned from the end of the AY 2023-24, the AY 2014-15 would be covered within the said period. Accordingly, the said contention is rejected.

9. The learned counsel for the petitioner does not press the challenge to the constitutional *vires* of Explanation 2 to Section 148 of the Act.

10. In view of the above, we consider it apposite to issue notice confined only to the petitioner's challenge premised on the proviso to Section 149(1) of the Act, as noted above.

11. The learned counsel for the respondents accepts notice.

12. The counter affidavit, if any, be filed within the period of two weeks from date. Rejoinder thereto, if any, be also filed before the next date of hearing.

13. List on 24.03.2025.

14. In the meanwhile, the reassessment proceedings pursuant to the impugned notice may continue, however, in case any order adverse to the petitioner is passed, the same shall not be given effect to till the next date of hearing.

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

JANUARY 16, 2025

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Click here to check corrigendum, if any

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