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ORDER SHEET

WPO/902/2025
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MCPI PRIVATE LIMITED
VS.
ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE-11(1), KOLKATA &
ORS.

BEFORE:
The Hon'ble JUSTICE OM NARAYAN RAI
Date: 6th January, 2026.

Mr. J. P. Khaitan, Sr. Adv., Mr. Pratyush Jhunjhunwala, Ms. Akshara Shukla, Mr. Aritra Nag, Advocates for the petitioner.

Mr. Prabir Kumar Bhowmick, Ms. Aishwarya Rajyashree, Mr. Vivek Gupta, Advocates for the respondent/revenue authorities.

The Court : Affidavit of service filed today be kept with the records.

This writ petition assails a notice issued under Section 148 of the Income Tax Act, 1961 whereby proceedings for reassessment of the petitioner's income for the assessment year 2021-22 have been initiated.

Mr. Khaitan, learned Senior Advocate appearing for the petitioner submits that the notice impugned has been issued without the Assessing Officer having in its possession information suggesting escapement of income in terms of Section 148 of the said Act of 1961. It is submitted that in such view of the matter, the notice is wholly without jurisdiction. It is further submitted that upon receipt of the said notice, the petitioner wrote to the Assessing Officer seeking the reasons based on which the said notice

had been issued. Such reasons were supplied to the petitioner whereupon the petitioner raised its objection thereto but such objection has not been disposed of as yet.

Mr. Khaitan has taken this Court through the reasons which form the basis of the issuance of the impugned notice to show cause and has submitted that the revenue authorities have sought to reopen the petitioner's case on the assumption that one Garden Silk Mills Private Limited has routed funds to Invent Group through a network of connected entities including the petitioner in order to help Invent Group to acquire a non-performing account/asset of Garden Silk Mills Private Limited. It is submitted that prior to the issuance of the impugned notice under Section 148 of the said Act of 1961, the petitioner had been issued a summons under Section 131(1A) of the said Act of 1961 calling upon the petitioner to answer certain queries raised therein. The petitioner responded to the same thereby providing detailed replies and indicating that the petitioner had no connection whatsoever with the Invent Group of Companies or Garden Silk Mills Private Limited and that the funds that had been provided to Invent Assets Securitisation and Reconstruction Private Limited (hereafter "Invent") by way of loan had been so provided by the petitioner from its own resources.

It is submitted that the petitioner's replies to the various queries put forth by the respondent/revenue authorities by way of their notice under Section 131(1A) of the said Act of 1961 have not at all been considered and the same would be apparent from the reasons that have been proffered by the revenue authorities in support of the impugned notice under Section

148 of the said Act of 1961.

It is further submitted that apart from the summons issued under Section 131(1A) of the said Act of 1961 the petitioner had also received a notice under Section 133(6) of the said Act of 1961 from the Central Circle-1(4), Mumbai whereby information pertaining to the petitioner's transactions with Invent and its group entities had been called for. The petitioner replied to the said notice in details by a letter dated November 18, 2022. It is submitted by Mr. Khaitan that none of the aforesaid replies have been considered by the respondent/revenue authorities before issuing the notice under Section 148 of the said Act of 1961.

In support of his submission that the Assessing Officer must apply its mind to the information provided by the petitioner and to the replies furnished by the petitioner in response to the notice issued by the respondent/revenue authorities prior to issuance of notice under Section 148 of the said Act of 1961, Mr. Khaitan relies on the following judgments:

- i. ***Benaifer Vispi Patel Vs. Income Tax Officer and Another*** reported at **[2025] 475 ITR 704 (Bom)**
- ii. ***Vishal Garg Vs. Assistant Commissioner of Income Tax*** reported at **[2024] 167 taxmann.com 483 (Punjab & Haryana)**

It is further submitted that in the case of ***Arjun Sahu V. Assistant Commissioner of Income-tax*** reported at **[2025] 179 taxmann.com 581** decided by the Hon'ble Allahabad High Court, it has been held that the principles laid down in by the Hon'ble Supreme Court in the case of ***GKN Driveshafts (India) Ltd. V. Income-Tax Officer and Others*** reported at **(2003) 259 ITR 19**, must be applied even in cases where section 148A is

not applicable and that it is incumbent on the Income Tax Authorities to dispose of any objection raised by an assessee to a notice under Section 148 of the said Act of 1961 before proceeding further.

A judgment of the Hon'ble Delhi High Court in the case of ***Monish Gajapati Raju Pusapati Vs. Assessment Unit Income Tax Department*** reported at ***[2025] 171 taxmann.com 874 (Delhi)*** has also been cited to assert that in the said case the revenue authorities dealt with the assessee's objection to the notice under section 148 of the said Act of 1961

Mr. Bhowmick, learned Advocate for the respondent/revenue authorities seeks time to file affidavit-in-opposition to the writ petition.

Heard learned Advocates for the respective parties and considered the materials on record.

On a prima facie consideration of the material on record it appears that the replies furnished by the petitioner to the notices issued under Section 131(1A) and 133(6) of the said Act of 1961 have not at all been considered by the respondent/revenue authorities. To wit, there is nothing on record to indicate that as to why has the petitioner's explanation to the effect that the petitioner had lent sums to Invent from its own funds has not weighed with the revenue authorities. Similarly, there is nothing on record to show as to why has the petitioner's version that it has no connection with either Invent or Garden Silk Mills Private Limited been disbelieved by the Respondents. There is nothing to demonstrate that the information provided by the petitioner in its replies to the notices under Section 131(1A) and 133(6) of the said Act of 1961 has received due consideration of the relevant revenue authorities.

If indeed the impugned notice under section 148 of the said Act of 1961 has been issued without considering the material on record which would certainly include the petitioner's responses to the notices issued by the revenue authorities, then in the *prima facie* view of the Court the said notice may not withstand legal scrutiny in the light of the consistent view of more than one High Court as is evident from the judgments cited in Court today.

Furthermore this Court is also of the *prima facie* view that the principles enunciated by the Hon'ble Supreme Court in the case of **GKN Driveshafts (India) Ltd.** (supra) should be applied to those cases where the procedure of Section 148A is not required to be mandatorily resorted to. In the case at hand the objection filed by the petitioner to the notice under section 148 of the said Act of 1961 has not been dealt with/disposed of as yet. As already indicated hereinabove, such failure, in the *prima facie* view of the Court is not ignorable as it contravenes the principle laid down by the Hon'ble Supreme Court in the case of **GKN Driveshafts (India) Ltd.** (supra).

Having regard to the aforesaid, since the petitioner has made out a strong *prima facie* case, there shall be an interim order in terms of prayer (e) of the writ petition. Accordingly, the respondent/revenue authorities shall stand restrained from proceeding further in terms of the notice dated March 28, 2025 issued under Section 148 of the said Act of 1961 for the assessment year 2021-22 till the end of March, 2026 or until further order, whichever is earlier.

As prayed for by Mr. Bhowmick, let affidavit-in-opposition to the writ

petition be filed within four weeks from date. Affidavit-in-reply thereto, if any, be filed within two weeks thereafter.

List this matter for further consideration immediately after expiry of the time fixed for exchange of affidavits.

(OM NARAYAN RAI, J.)

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