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*** IN THE HIGH COURTOF DELHIAT NEW DELHI**

Date of decision: 3rd November, 2025

\+ **W.P.(C) 16378/2025 and CM APPLs. 67135/2025 &67136/2025**

VEDANTA LIMITED .....Petitioner

Through: Ms. Pragyan Pradip Sharma, Sr. Adv. with Mr. Divyanshu Agrawal, Mr. Vaibhav Niti, Mr. Hardik Jain, Mr. Vaibhav Niti & Mr. Rachit Sharma, Advs. (M: 7742214296)

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 25(1) DELHI & ORS. .....Respondents

Through: Mr. Ruchir Bhatia, SSC with Mr. Anant Mann & Mr. Abhishek Anand, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner- M/s Vedanta Limited under Article 226 and 227 of the Constitution of India, *inter alia*, challenging the impugned notice dated 24th March, 2025 issued under Section 148A(1) of the Income Tax Act, 1961 by the Assistant Commissioner of Income Tax Circle 25 (1), Delhi *(hereinafter, 'impugned notice')* and the impugned order dated 23rd June, 2025 passed under Section 148A(3) of the Income Tax Act, 1961 *(hereinafter, 'impugned order')*, for the Assessment Year 2019-2020.

3. The case of the Income Tax Department is that, it received certain intelligence from the Directorate General of GST Intelligence, Coimbatore Zonal Unit *(hereinafter, 'DGGI')* in respect of wrongful availment of Input tax credit *(hereinafter, 'ITC')*, without actual receipt of goods at the declared place of business of the Petitioner.

4. The background is that the Petitioner entered into a transaction for the sale of copper concentrate during the period when its copper plant at Tuticorin was closed down due to environmental concerns. The said transaction was entered into through four agreements with one M/s Xango Trading (India) Pvt. Ltd., for sale and repurchase of approximately 55,000 MT of Cooper.

5. The sale of copper concentrate *vide* six invoices is stated to have been recorded in the books of accounts of the Petitioner. The copper plant was then directed to be restored for operation *vide* order dated 15th December, 2018 passed by the National Green Tribunal. Pursuant to which, the Petitioner repurchased the copper concentrate. In respect of the said transaction the allegation is that ITC of more than Rs. 30 crores has been wrongfully availed by M/s Xango Trading (India) Pvt. Ltd.

6. Consequently, summons are stated to have been issued to M/s Xango Trading (India) Pvt. Ltd. and to M/s Vedanta Limited, pursuant to which an investigation report is stated to have been prepared by DGGI.

7. According to the Income Tax Department, there was bogus ITC amounting to more than Rs. 424 crore which was availed of. On the basis of the investigation report of the DGGI, the Income Tax Department issued the impugned notice dated 24th March, 2025, as to why Rs. 424 crores ought not to be demanded in proceedings under Section 148A(1) of the Income

Tax Act, 1961.

8. In respect of the said notice, the Petitioner filed a reply on 16th April, 2025, and thereafter the impugned order has been passed on 23rd June, 2025, on the ground that there is an escape of more than Rs. 424 crores from assessment. The operative portion of the said order reads as under:

> *"8. In light of the above discussions, the plea of the assessee is not accepted. In this case income likely to escape is Rs. 424,58,16,985/- which is more than Rs. 50 lakhs and the same is represented in the form of transaction or entries as mentioned above which shows the income chargeable to tax, which has escaped assessment, amounts to more than fifty lakhs rupees. Thus, the assessee's case is covered under provision of section 149 (1)(b) of the Income Tax Act, 1961. Accordingly, it is concluded that it is a fit case for issuing notice u/s 148 of the Act for A.Y. 2019-20.*
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> ***9. Accordingly, after considering the facts of the case, as mentioned above, it is concluded that this is a fit case for issuing notice u/s 148 of the I.T. Act.***
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> *10. This order is being passed with prior approval of Joint Commissioner of Income Tax, Range-25 New Delhi."*

9. Ms. Pragyan Pradip Sharma, ld. Sr. Counsel appearing on behalf of the Petitioner, has brought to the notice of the Court order dated 11th July, 2025, passed by the Additional Commissioner, GST and Central Excise, Madurai *(hereinafter, 'GST order')*, wherein the main issue in respect of availment of ITC is stated to have been closed by the GST Department. It is the submission of ld. Sr. Counsel for the Petitioner that the entire basis of the impugned notice was the aforesaid transaction, in respect of which proceedings have already been closed by the GST Department, and both the

impugned notice and the impugned order are not tenable. Thus, ld. Sr. Counsel for the Petitioner prays that the same be set aside.

10. Further, ld. Sr. Counsel for the Petitioner submits that the language of Section 148A has been changed with effect from 01st September, 2024, in view of the amendments by the Finance Act, 2025. Previously, even for issuance of Section 148A notice, an opportunity of being heard was to be provided. The information was also to be independently examined by the Income Tax Department, and notice could not have been issued to the assessee in a mechanical manner. For the same, reliance is placed upon the decision of the Coordinate Bench of this Court in ***Divya Capital One Pvt. Ltd. v. Assistant Commissioner Income Tax [2022] 445 ITR 436 (Del),*** and also other decisions.

11. On the other hand, Mr. Bhatia, ld. SSC for the Respondent, submits that the applicable provision would be Section 148A(1) of the Income Tax Act, 1961, post amendment, which is in effect on the date when the impugned notice was issued in this case. Further, ld. SSC for the Respondent submits that a perusal of paragraph 8 of ***Divya Capital One Pvt. Ltd. (supra)*** would itself show that the notice for reassessment could be issued under Section 148A(b) of the Income Tax Act,1961 of the earlier regime, but not under Section 148A(d) of the Income Tax Act,1961.

12. Additionally, ld. SSC for the Respondent submits that the GST order is subsequent to the impugned order, and hence was not within the knowledge of the concerned officer who passed the impugned order under Section 148A(3) of the Income Tax Act,1961.

13. Heard. After hearing ld. Counsels for the parties, it is evident that the present case is governed by the provisions of Section 148A of the Income

Tax Act, 1961, as amended and brought into effect from 1st September, 2024.

14. Notably, the impugned order was passed prior to the GST order, and thus, obviously the said order of the GST department, could not have been taken into consideration by the concerned officer.

15. Moreover, the closing of the proceedings by the GST Department would have an impact and bearing on the Section 148A proceedings and, therefore, this Court is of the opinion that the impugned order deserves to be set aside, and the matter deserves to be remanded for reconsideration, in view of the GST order dated 11th July, 2025.

16. Accordingly, the impugned order is set aside. The matter is remanded for being considered afresh, after bearing in mind the GST order dated 11th July 2025.

17. Insofar as the legality and validity the impugned notice is concerned, the submission made on behalf of the Petitioner, that there has to be independent reasoning given by the Income Tax Department and hence the said notice is itself unsustainable, is left open at this stage, for being canvassed at a later stage, if the need so arises.

18. Additionally, the Petitioner may place the GST order before the concerned authority *i.e.*, the Assistant Commissioner of Income Tax Circle 25(1), along with a short note of submissions which it relies upon. Let the same be filed within four weeks.

19. If any clarifications are required, the concerned officer, is at the liberty to call the Petitioner, if the need arises.

20. Let the order under Section 148A(3) of the Income Tax Act, 1961 be passed within a period of three months.

21. Rights and contentions of both parties are left open.

22. A reasoned order shall be passed after considering the submissions which are to be made.

23. Accordingly, the petition is disposed of in these terms.Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

NOVEMBER 3, 2025
Jyh/dj/sm