IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMP No.24572 of 2026

Decided on: 23.09.2026

Nirdosh Bhushan ... Petitioner/non-applicant

Versus

Income Tax Officer,Ward-Parwanoo & others ... Applicants/Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge.
Hon'ble Mr. Justice Yogesh Jaswal, Judge.

Whether approved for reporting?[1]

For the petitioner/ Non-applicant: Mr. Praveen Sharma, Advocate.

For the applicants/ respondents: Mr. Neeraj Sharma, Senior Standing Counsel and Mr. Ishan Kashyap, Junior Standing Counsel.

Ajay Mohan Goel, Judge (Oral)

CMP No.24572 of 2026

In light of the averments made in the application and more so the judgment of the Hon'ble Supreme Court in Income Tax Officer versus Tej Partap Singh, in Civil Appeal No.4716 of 2026, which stands referred in the present application, as prayed for by the applicant, the same is allowed by ordering the recall of judgment dated 17.09.2025, passed in CWP No.2716 of 2025 and by ordering the revival of the writ petition. Registry is directed to restore the writ petition to its original number.

CWP No.2716 of 2025

2. With the consent of the parties, this writ petition is being disposed of today itself.

3. By way of this writ petition, the petitioner has

[1] *Whether reporters of the local papers may be allowed to see the judgment?*

approached this Court, inter alia, praying for the following relief:-

> "*That this Hon'ble Court may be pleased to issue writ in the nature of Certiorari or any other appropriate writ, order or direction, thereby quashing/setting aside the impugned order passed under Section 148A(d) and notice under Section 148 dated 14.03.2024, Annexure P-2, being illegal, without jurisdiction, against the procedure and further based on the illegal sanction/approval under Section 151 of the Income Tax Act, 1961 and all proceedings/actions consequent thereto.*"

4. The writ petition was disposed of by this Court in terms of order dated 17.09.2025, in the following terms:-

> "*Since the issue involved in this petition is already pending consideration before the Hon'ble Supreme Court, therefore, keeping in view the judicial discipline, we refrain ourselves from giving our opinion with respect to impugned notice under Section 148, dated 14.03.2024 (Annexure P-2), as assailed in this petition. We direct that the present petition shall be governed by the judgment passed by the Hon'ble Supreme Court and the decision thereto, shall be binding on this case also.*
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> *The continuity of proceedings before the competent authority, in view of the pendency of the matter before the Hon'ble Supreme Court is bound to lead multiplicity of litigation. Therefore, we deem it appropriate to stay such proceedings till the time issue is finally decided by the Hon'ble Supreme Court. Ordered accordingly.*"

5. The Hon'ble Supreme Court of India was pleased to dispose of a large batch of reassessment matters in terms of judgment dated 10.04.2026, passed in C.A. No.4716 of 2026, titled as Income Tax Officer Vs. Tej Partap Singh, by observing as under:-

> "*18. It is urged that, in light of the divergent views taken by the High Courts owing to perceived ambiguity in the existing law, Parliament has now made the clarificatory amendment with retrospective effect from 01.04.2021, the date on which the original provisions came into force, and that the alleged anomalous situation, if any, has been removed. It was additionally submitted that the power to enact retrospective amendments is well settled in law, and that fresh notices will now be issued to assessees in accordance with the clarified position, so that pending reassessment proceedings may be concluded in accordance with law.*
>
> *19. Conversely, it has been vehemently urged on behalf of the assessees that the new Amendment is not 'clarificatory' in nature but is rather an abortive attempt to fasten penal liability retrospectively, which is impermissible under law. It is their contention that the amending laws having antedated civil consequences ought to be construed strictly.*
>
> *20. In all fairness, we may add that several other contentions have also been raised by both sides, which we do not consider it necessary to advert to at this stage in light of the order we propose to pass. In the facts of the present batch, we are of the considered view that it is not necessary for this Court to examine the merits of the rival submissions concerning the correctness of the impugned judgments or the scope of the competing precedents at this juncture.*

21. It appears to us that the assessees would be entitled to challenge the amending provisions as elaborated upon heretofore, for which it would only be appropriate to relegate them to the jurisdictional High Courts. All contentions raised before us, as well as any other grounds available to them to question the impugned notices, may be urged before the High Courts instead.

22. Since the High Courts have primarily quashed the reassessment notices on the ground that the JAOs lacked competence to initiate such proceedings, and the very foundation of that view now stands altered by the amending legislation, the impugned judgments in favor of the assessees are set aside on this limited ground. The matters are accordingly remitted to the respective High Courts for fresh consideration. Ordered accordingly.

23. The assessees are granted liberty to amend their writ petitions, if so advised, within a period of four (4) weeks from the date of uploading of this order, so as to enable them to lay challenge to Section 147A of the IT Act, as introduced by Act No. 4 of 2026, or to any other connected or consequential provision.

24. Similarly, the Appellant-Revenue shall be at liberty to file their written submissions and affidavits before the jurisdictional High Courts within a period of three (3) weeks thereafter."

6. A perusal of the above judgment demonstrates that the Hon'ble Supreme Court, in terms of the findings returned therein, was pleased to set aside the judgments which were passed by the various High Courts, against which, the SLPs stood preferred before the Hon'ble Supreme Court. Thereafter, the Hon'ble Supreme Court was pleased to remand the matters back to the respective High

Courts for adjudication afresh, with liberty to the petitioners therein that, if so advised, they may lay challenge to Section 147A of the Income Tax Act.

7. In light of the fact that the Hon'ble Supreme Court of India was pleased to remand the matters before it to the respective Hon'ble High Courts with liberty to the petitioner therein to lay challenge to Section 147A of the Income Tax Act, if so advised, as prayed for, this petition is closed with liberty to the petitioner to approach the Court afresh on the same cause of action, on which, he had approached the Court earlier with further liberty to the petitioner to lay challenge to Section 147-A of the Income Tax Act and pray any other relief, to which, the petitioner may be entitled to on account of subsequent developments. The protection given to the petitioner in this case earlier shall continue to be operative for a period of 90 days from today. However, if the petitioner fails to approach this Court within 90 days as from the date of this order, then, the protection granted to him shall cease to operate.

8. Pending miscellaneous applications, if any, also stands disposed of.

(Ajay Mohan Goel)
Judge

(Yogesh Jaswal)
Judge

September 23, 2026
(Rishi)