

**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**

D.B. Civil Writ Petition No.8508/2022

Urmila, W/o Surya Prakash Dhadich, Aged 54 Years, R/o Garh Ke Same, Dudu, Jaipur, 303008, Rajasthan.

----Petitioner

Versus

Income Tax Officer, ITO Ward, Maharana Pratap Circle, Udaipur Main Road, Banswara, Banswara, Rajasthan, 327001

----Respondent

Connected With

D.B. Civil Writ Petition No.8510/2022

Surya Prakash S/o Durga Lal Dadhich, Aged 56 Years, R/o Kile Ke Pass, Dudu, Jaipur 303008, Rajasthan.

----Petitioner

Versus

Income Tax Officer, Ward 1(1), New Central Revenue Building, B.D. Road, Jaipur 302005, Rajasthan.

----Respondent

D.B. Civil Writ Petition No.8519/2022

Vaijanti Dadhich D/o Surya Prakash Dhadich, Aged 28 Years, R/o Kile Ke Pass, Dudu, Jaipur 303008, Rajasthan.

----Petitioner

Versus

Income Tax Officer, ITO Ward, Maharana Pratap Circle, Udaipur Main Road, Banswara, Banswara, Rajasthan 327001.

----Respondent

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For Petitioner(s) : Mr. Mahendra Gargeiya, Advocate  
with Mr. Anurabh Dey, Advocate  
Mr. Devang Gargeiya, Advocate

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**HON'BLE MR. JUSTICE MANINDRA MOHAN SHRIVASTAVA  
HON'BLE MRS. JUSTICE SHUBHA MEHTA**

**Order****28/06/2022**

Heard.

Challenge to initiation of proceedings under Section 148A of the Income Tax Act, 1961 (hereinafter referred to as "I.T. Act"), as also orders dated 29.03.2022 passed under clause (d) of Section 148A of the I.T. Act and issuance of subsequent notices under Section 148 of the I.T. Act have been assailed primarily on the ground that even though a prayer for short adjournment was made to file response to notices under Section 148A of the I.T. Act, despite having been duly acknowledged, no time was granted and the orders were passed which has resulted in miscarriage of justice because according to the petitioners one single transaction of alleged cash deposit of Rs.34,01,000/- has been taken into consideration as two different cash deposits to make it Rs.68,02,000/- only to surpass the bar under Section 149 of the I.T. Act.

We find that though notices under Section 148A of the I.T. Act were given to the petitioners to file their response within the statutory period of seven days, the petitioners applied for adjournment. The orders passed under clause (d) of Section 148A of the I.T. Act do not refer to such prayer for adjournment. However, taking into consideration that the material placed before us does not show any extraordinary grounds for seeking such adjournment, only on that ground we are not inclined to interfere with the orders which have been passed under clause (d) of Section 148A of the I.T. Act. However, at the same time taking into consideration the very substantial point which has been raised by the petitioners that one single cash deposit of Rs.34,01,000/-

has been taken as two different transactions, which according to the petitioners is factually incorrect and not borne out from any of the record including transactions made as entered in the accounts of the bank, we are of the view that this objection should be taken into consideration by the authority concerned in proceedings under Section 148 of the I.T. Act, which have now been initiated. The authority would be obliged under the law to decide this very objection with reference to the relevant material, which has been placed before it by the petitioners as also by collecting other material including the bank transactions, slips, statements and specific record and clear reasons on the objection raised by the petitioners that the alleged income chargeable to tax is less than Rs.50,00,000/- as there is only single alleged transaction of Rs.34,01,000/- and not two transactions as stated in the proceedings drawn under Section 148A of the I.T. Act.

With the aforesaid directions, these petitions, at this stage, are disposed off with liberty to the petitioners to revive their cases, if eventuality so arises.

A copy of this order be placed on record in each connected petition.

(SHUBHA MEHTA),J

(MANINDRA MOHAN SHRIVASTAVA),J