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

+ W.P.(C) 12618/2022 and CM APPL. 38229/2022 (for stay)

SUMANT INVESTMENTS
PRIVATE LIMITED

..... Petitioner

Through : Mr. V.P. Gupta and Mr. Anunav
Kumar, Advocates.

versus

ASSISTANT COMMISSIONER
OF INCOME TAX

..... Respondent

Through : Mr. Ruchir Bhatia, Senior Standing
Counsel for Revenue.

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Date of Decision: 28th September, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, J (Oral):

1. Present Writ Petition has been filed challenging the Order passed under Section 148A(d) of the Income Tax Act, 1961 ('the Act') and the Notice issued under Section 148 of the Act, both dated 20th July, 2022 for the Assessment Year ('AY') 2014-15.
2. Learned Counsel for the Petitioner states that the impugned Order and notice are void *ab initio* as the same have been issued in the name of Sare Marketing Private Limited which was amalgamated with the Petitioner Company i.e. Sumant Investments Private Ltd. w.e.f. 1st April, 2014 vide order of this Court dated 19th September, 2014 under Section 391 - 394 of



the Companies Act, 1956 and accordingly, the company, namely, Sare Marketing Private Limited has not been in existence since then.

3. He states that the Petitioner informed the Respondent about the status of the assessee vide several replies filed in response to notices issued under Section 148 of the Income Tax Act, 1961 ('the Act'). He, however, states that the Respondent without taking cognizance of replies of the petitioner, proceeded to pass the impugned order under Section 148A(d) in the name of Sare Marketing Private Limited. He also emphasises that on 9th February, 2016, the Assessing Officer had passed an assessment order with regard to the erstwhile company for the Assessment Year 2013-14, after taking into account the factum of amalgamation of Sare Marketing Private Limited with the petitioner company.

4. He submits that the notice being in the name of a non-existent company cannot be complied with and accordingly, the petitioner company cannot file return in response to notice under Section 148 of the Act in the name of Sare Marketing Private Limited with reference to PAN of above company.

5. Issue notice.

6. Mr. Ruchir Bhatia, learned Senior Standing Counsel for Revenue accepts notice.

7. He states that he has received following instructions from the Assessing Officer vide e-mail dated 23rd September, 2022.

“After taking into consideration the facts and circumstances of the case it is noticed that notice u/s 148 was issued in this case in the name of M/s Sare Marketing P. Ltd. for the A.Y. 2014-15. Further, perusal of records revealed that this entity was merged with M/s. Sumant Investments Pvt. Ltd. w.e.f. 01.04.2014 vide



Hon'ble Delhi High Court's order dated 19.09.2014. Therefore, it is on records that the entity M/s Sare Marketing Pvt. Ltd. was not in existence on the date of issue of notices u/s 148A(b) and u/s 148 of the Income-tax Act, 1961.

8. In view of the aforesaid facts and the stand taken by the respondent the impugned order passed under Section 148A(d) of the Income Tax Act, 1961 and the Notice issued under Section 148 of the Act, both dated 20th July, 2022 for the Assessment Year 2014-15 are set aside. If the law permits the respondents/revenue to take further steps in the matter, they shall be at liberty to do so. Needless to state that if and when such steps are taken and if the petitioners have a grievance, they shall be at liberty to take their remedies in accordance with law.

9. Accordingly, the present writ petition and the application stand disposed of.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 28, 2022

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