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

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Decision delivered on: 20.12.2022

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W.P.(C) 14932/2022 & CM Nos.45972-73/2022

SUBHASH BHATIA HUF

..... Petitioner

Through: Mr Ravi Pratap Mall and Mr Shyam
Sundar, Advs.

versus

INCOME TAX OFFICER WARD -47(1) –
DELHI & ANR.

..... Respondents

Through: Mr Abhishek Maratha, Sr. Standing
Counsel.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

CM No.45973/2022

1. Allowed, subject to just exceptions.

**W.P.(C) 14932/2022 & CM No.45972/2022 [Application filed on behalf of
the petitioner seeking interim relief]**

2. The record shows that the assessment order was framed *qua* the petitioner under Section 147 read with Sections 144 and 144B of the Income Tax Act, 1961 [in short, “Act”] on 30.03.2022.

3. The aforementioned assessment order was passed, in the backdrop of notice dated 31.03.2021 issued under Section 148 of the Act [unamended provision].

4. We are informed that Mr Abhishek Maratha, who appears on behalf of the respondents/revenue, was required to obtain instructions with regard to when the aforementioned notice was served on the petitioner. Depending on the date when the notice was served on the petitioner, it would be determined whether the new regime provided under Section 148A of the Act would apply to the petitioner.

4.1. Mr Maratha has obtained instructions to the effect that the notice issued under Section 148 of the Act i.e., the old regime was triggered *qua* the petitioner on 31.03.2021 at 7:32:02 P.M.

5. Given this position, Mr Maratha cannot but accept that the notice dated 02.06.2022 issued under Section 148A(b) and the impugned order dated 31.07.2022 passed thereafter, as also the consequent notice of even date, i.e., 31.07.2022 issued under amended Section 148 of the Act, cannot be sustained.

6. Accordingly, the prayer made in the writ petition is allowed.

7. The impugned notice dated 02.06.2022 issued under Section 148(A)(b), the order dated 31.07.2022 passed under Section 148A(d) and the consequent notice dated 31.07.2022 issued under Section 148 [amended Act], concerning Assessment Year (AY) 2017-18, shall stand quashed.

8. The writ petition is disposed of in the aforesaid terms.

9. Consequently, the pending application shall stand closed.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

DECEMBER 20, 2022/aj