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

\+ W.P.(C) 1046/2024 & CM APPL. 4401/2024 (Stay)

PRATISHTHA GARG ..... Petitioner

Through: Mr. Sumit Lalchandani & Mr. Tarun Chanana, Advs.

versus

INCOME TAX OFFICER WARD 34(1), DELHI & ANR. ..... Respondents

Through: Mr. Gaurav Gupta, SSC with Mr. Shivenda Singh, Mr. Yojit Pareek, JSCs & Mr. Namit Gupta, Adv.

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\+ W.P.(C) 1048/2024 & CM APPL. 4404/2024 (Stay)

PRATISHTHA GARG ..... Petitioner

Through: Mr. Sumit Lalchandani & Mr. Tarun Chanana, Advs.

versus

INCOME TAX OFFICER, WARD 34(1), DELHI & ANR. ..... Respondents

Through: Mr. Gaurav Gupta, SSC with Mr. Shivenda Singh, Mr. Yojit Pareek, JSCs & Mr. Namit Gupta, Adv.

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\+ W.P.(C) 1196/2024 & CM APPL. 4993/2024 (Stay)

PRATISHTHA GARG ..... Petitioner

Through: Mr. Sumit Lalchandani & Mr. Tarun Chanana, Advs.

versus

INCOME TAX OFFICER, WARD 34-1, DELHI & ANR. ..... Respondents

Through: Mr. Gaurav Gupta, SSC with Mr. Shivenda Singh, Mr. Yojit Pareek, JSCs & Mr. Namit Gupta, Adv.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

% **24.05.2024**

1. These writ petitions have been preferred against the impugned notices dated 29 June 2022 issued under Section 153C of the Income Tax Act, 1961 ["**Act**"] for Assessment Years' ["**AYs'**"] 2016-17 [W.P.(C) 1046/2024], 2014-15 [W.P.(C) 1048/2024] and 2015-16 [W.P.(C) 1196/2024] and all consequential proceedings.

2. Bearing in mind the undisputed fact that the Satisfaction Note recorded by the jurisdictional Assessing Officer ["**AO**"] of the petitioner was dated 22 June 2022, it is ex facie evident that the income which is alleged to have escaped assessment for the "*relevant assessment year*" does not exceed INR 50 lakhs, thereby not fulfilling the threshold requirement as prescribed by the Fourth Proviso to Section 153A.

3. The issue in any case stands answered and covered in favour of the writ petitioner in light of the judgment rendered in **Principal Commissioner of Income Tax Central – 1 vs. Ojjus Medicare Pvt. Ltd** [2024 SCC Online Del 2439]. The relevant paragraphs of the aforesaid decision read as under:-

> ""**G.** Insofar as the thresholds put in place by virtue of the Fourth Proviso to Section 153A are concerned and the argument of the writ petitioners of the condition of INR 50 lakhs being an unwavering precondition, we find ourselves unable to sustain that submission bearing in mind the indubitable fact that proceedings for search assessment commence upon the issuance of a notice and the AO at that stage having really not had the occasion to undertake a detailed

or in depth examination of the evidence collected or come to a definitive opinion with respect to the total income which may have escaped assessment. Since the computation and assessment of income that is likely to have escaped assessment would at this stage be provisional, it would be incorrect to strike down initiation of action on a mere ex facie examination of the Satisfaction Note. We also in this regard bear in mind the Fourth Proviso using the expression "*amounts to or is likely to amount*". The usage of the phrase "*likely to*" is indicative of the Legislature being conscious of the provisional character of the opinion that the AO may have formed at that stage.

H. However, and at the same time, even if the identified asset at that stage be quantified as less than INR 50 lakhs, the AO must for reasons to be duly recorded, be of the opinion that the ultimate computation of escaped income is likely to exceed INR 50 lakhs. The aforesaid satisfaction would have to be based on an assessment of the material gathered and the potentiality of the same being indicative of the escaped assessment exceeding INR 50 lakhs. The formation of opinion in this respect would have to be based not on mere ipse dixit but reflective of a fair assessment of the quantum of income likely to have escaped assessment as distinct from mere speculation and conjecture.

I. We further hold that since the precondition of INR 50 lakhs or more constitutes a sine qua non for initiating action for the extended ten year block, the aforesaid satisfaction and the reasons in support thereof would have to borne out from the Satisfaction Note itself. We are also of the opinion that the precondition of INR 50 lakhs is not liable to be viewed as being the qualifying criteria for each "*relevant assessment year*" that may be thrown open and that the said condition would stand satisfied if the escaped income cumulatively or in the aggregate meets the minimum benchmark of INR 50 lakhs."

4. Accordingly, and for reasons assigned in our decision in *Ojjus Medicare Private Limited*, while we allow the instant writ petitions and quash the impugned notices issued under Section 153C of the Act dated 29 June 2022 insofar as it relates to AYs' 2016-17, 2014-15 and 2015-16, we leave it open to the AO to examine the issue afresh bearing in mind the observations appearing in para 3 above.

5. In case the AO be of the opinion that the income alleged to

have escaped assessment is likely to exceed INR 50 lakhs in the "*relevant assessment year*", it would be open to it to draw proceedings afresh, if otherwise permissible in law.

YASHWANT VARMA, J

AMIT BANSAL, J

MAY 24, 2024/kk