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

\+ W.P.(C) 2150/2022 & CM APPL. 32472/2023

AL AMIN INVESTMENTS LIMITED ..... Petitioner

Through: Mr.Fereshte D. Sethna, Mr.Mrunal Paresh and Mr.Mohit Tiwari, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE INTERNATIONAL TAX 1(1)(1) DELHI & ANR.

..... Respondents

Through: Mr.Aseem Chawla, Sr.SC with Ms.Pratishtha Chaudhary and Mr.Naveen Rohila, Advs. Mr.N.K.Aggarwal, Adv for UOI.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **15.03.2024**

1. This writ petition has been preferred seeking the following reliefs:-

> "a) that this Hon'ble Court be pleased to issue a writ of certiorari or writ of mandamus or any other appropriate writ, order or direction in the nature of certiorari/mandamus, under Article 226 of the Constitution of India, calling for all the papers and proceedings of Respondent No. I pertaining to the Impugned Order dated 30 January 2022, Impugned Notice dated 31 March 2021 and Impugned Sanction dated 30 March 2021 after examining the validity, legality and propriety thereof, to quash and set aside the Impugned Order, Impugned Notice and Impugned Sanction;
> b) A Writ, Order or Direction in the nature of Certiorari quashing the Impugned Draft Assessment Order dated 25 May 2023 issued under section l44C(l) read with section 147 of the Act for AY 2015-16;
> c) Pending the hearing and final disposal of the writ petition, for an order restraining the Respondents, its officers, sub-ordinates, agents from relying upon and/or taking any steps in connection with

escapement proceedings initiated against the Petitioner in pursuance of the Impugned Notice;
d) For ad-interim/interim reliefs m terms of prayer clause (b) above;
e) For the costs of this Petition; and
f) For such further and other reliefs, as this Hon'ble Court may deem fit, proper and appropriate, in the nature and circumstances of this case."

2. The challenge in essence is to the reopening of assessment by invocation of Section 148 of the Income Tax Act, 1961 ["**Act**"] with it being alleged that the investment made in shares in Assessment Year ["**AY**"] 2015-2016 had escaped assessment.

3. Learned counsel appearing in support of the writ petition draws our attention to the decision rendered by the Court in **M/s Angelantoni Test Technologies SRL vs Assistant Commissioner of Income Tax, Circle Int Tax 1(1)(1) & Ors.** [2023 SCC OnLine Del 8488] and contends that it has been categorically found by the Court that the investment in shares would be a capital account transaction and would thus not constitute income. It is in view of the aforesaid, submitted that invocation of Section 148 of the Act would not sustain.

4. The legal position which stands enunciated in *M/s Angelantoni Test Technologies* could not be disputed by learned counsel representing the respondents.

5. We consequently allow the instant writ petition and quash the impugned notice referrable to Section 148 dated 31 March 2021 and order dated 30 January 2022.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MARCH 15, 2024/MJ