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

\+ W.P.(C) 4431/2023, CM APPL. 17016/2023 (Interim Relief)

BOEING UK TRAINING FLIGHT SERVICES LTD.

..... Petitioner

Through: Mr. Sachit Jolly and Ms. Disha Jham, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 1 1 2, INTERNATIONAL TAXATION & ANR.

..... Respondent

Through: Mr. Ruchir Bhatia, Sr. Standing Counsel with Ms. Deeksha Gupta, Adv. for Revenue.

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

O R D E R

% **24.01.2024**

1. Learned counsels for respective parties are ad idem that insofar as the grant of approval for initiation of reassessment proceedings is concerned, the same would stand answered in favour of the assessee in light of the conclusions recorded in the judgment of our Court in **Twylight Infrastructure Pvt Ltd. vs. Income Tax Officer Ward 25 3 Delhi & Ors.** [2024:DHC:259-DB]. The relevant paragraphs of that decision are extracted hereinbelow:-

> "**12.1.** Clauses (i) and (ii) of Section 151 of the amended Act (which has been extracted hereinabove) clearly specify the authority whose approval can trigger the reassessment proceedings. <u>Thus, if three (3) years or less have elapsed from the end of the relevant AY, the specified authority who would grant approval for initiation of reassessment proceedings will be the Principal Commissioner or Principal Director or Commissioner or Director. However, if more than three (3) years from the end of the relevant AY have elapsed, the specified authority for according approval for</u>

reassessment shall be the Principal Chief Commissioner or Principal Director General or, where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General.

12.2. That the approval is mandatory is plainly evident on perusal of the first proviso appended to Section 148 of the Act. the said proviso, at the risk of repetition, reads as follows:

> "*…Provided that* ***no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the Assessing Officer has obtained prior approval of the specified authority to issue such notice…."***

12.3. In these cases, there is no dispute that although three (3) years had elapsed from of the end of the relevant AY, the approval was sought from authorities specified in clause (i), as against clause (ii) of Section 151.

xxxx xxxx xxxx

13. Therefore, having regard to the aforesaid, the impugned notices and orders in each of the above-captioned writ petitions are quashed on the ground that there is no approval of the specified authority, as indicated in Section 151(ii) of the Act. The direction is issued with the caveat that the revenue will have liberty to take steps, if deemed necessary, albeit as per law."

2. In view of the aforesaid and since undisputedly in the facts of the present case, the approval had been granted by the Commissioner of Income Tax, we set aside the impugned notice issued under Section 148 of the Income Tax Act, 1961 on this short ground alone.

3. The writ petition shall consequently stand allowed on the aforesaid terms. The impugned notice dated 14 February 2023 shall stand quashed and set aside. The aforesaid shall be without prejudice to the rights and contentions of the respondents to initiate proceedings afresh, if so permissible in law.

4. All other rights and contentions of the writ petitioner are kept open.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

JANUARY 24, 2024/ neha