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

\+ W.P.(C) 3959/2024 & CM APPL. 16247/2024

SABHARWAL APARTMENTS PRIVATE LIMITED ..... Petitioner

Through: Ms.Ananya Kapoor, Adv.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE-22(2), DELHI & ANR. ..... Respondents

Through: Mr.Ruchir Bhatia, Sr.SC with Ms.Deeksha Gupta, Adv.

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

ORDER

% **20.03.2024**

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

> "A. Issue a writ of and/or order and or directions in the nature of certiorari or any other appropriate writ, order or direction quashing the notice dated 25.11.2022 issued under Section 148A(b) of the Act; the impugned notice dated 24.01.2023 issued under Section 148 of the Act and the impugned order dated 24.01.2023 passed under Section 148A(d) of the Act by the Respondent No. 1 and the proceedings initiated pursuant thereto;
> B. Issue a writ of and/or order and/or direction in the nature of Prohibition commanding Respondents to forebear from giving effect to and/or taking any step whatsoever pursuant to and/or in furtherance of the said purported notice under Section 148 of the Act and/or in any proceedings initiated thereunder for the AY 2016-17, and grant stay on the reassessment proceedings;
> C. Issue any other Writ, order or Direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.
> D. To dispense with from filing certified copies of Annexures.
> E. To allow the writ petition with cost in favour of the Petitioner and against the Respondents."

2. Before us the respondents could not dispute that the challenge will have to be answered in favour of the writ petitioner bearing in

mind the judgment rendered by the Court in **Twylight Infrastructure (P) Ltd. v. CIT** [2024 SCC OnLine Del 330].

3. We consequently, allow the present writ petition and quash the impugned notices dated 25 November 2022 under Section 148A(b) of the Income Tax Act, 1961 ["**ACT**"] and 24 January 2023 under Section 148 of the Act, and impugned order dated 24 January 2023 under Section 148A(d) of the Act. The petitioner is held entitled to all consequential reliefs.

4. The aforesaid shall be subject to the liberty reserved as per paragraph Nos. 28 to 30 of *Twylight Infrastructure*, and which read as under:

> "**28.** Before us, the counsel for the revenue continue to hold this position. The only liberty that they seek is that if, based on the judgment in *Ganesh Dass Khanna*, the impugned orders and notices are set aside, liberty be given to the revenue to commence reassessment proceedings afresh.
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> **29.** 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.
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> **30.** Needless to add, the rights and contentions of both the sides will remain open, in the event the revenue triggers reassessment proceedings."

5. The writ petition is disposed of accordingly.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MARCH 20, 2024/MJ