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

\+ W.P.(C) 4457/2024 & CM APPL. 18292/2024 (Stay)

NARAYAN INDUSTRIES ..... Petitioner

Through: Mr. Rohit Jain, Mr. Saksham Singhal, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 8 DELHI ..... Respondent

Through: Mr. Puneet Rai, SSC with Mr. Ashvini Kumar, Mr. Rishabh Kumar, Mr. Nikhil Jain, Advs.

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

O R D E R

% 22.03.2024

CM APPL. 18293/2024 (Ex.)

1. Allowed, subject to all just exceptions.

2. The application is disposed of.

W.P.(C) 4457/2024 & CM APPL. 18292/2024 (Stay)

3. This writ petition impugns the order dated 10 March 2024 pursuant to which and as is ex facie evident the respondent has sought to undertake a wholehearted review of a view expressed and taken in its order dated 03 March 2024.

4. The dispute itself emanates in the context of proceedings under Section 153C of the Income Tax Act, 1961 ["**Act**"] as initiated against the petitioner and pertaining to Assessment Year ["**AY**"] 2010–11 and 2011-12. In terms of the order dated 03 March 2024, the Assessing Officer accepted the stand of the petitioner assessee to hold that insofar as AY 2010-11 is concerned, it would clearly fall beyond the

maximum block of ten AYs. This view clearly commends acceptance bearing in mind the undisputed fact that the Section 153C notice was dated 30 December 2022. However, the objection which was taken in respect of AY 2011–12 was not accepted.

5. By the impugned order dated 10 March 2024, the respondent has sought to review that position by asserting that it proposes to take remedial action. This is evident from the following extracts which appear in the impugned order and are reproduced hereinbelow:-

> "Meanwhile, assessee filed objection stating that proceedings under section 153C of the Act cannot be initiated for A.Y. 2010, being assessment years prior to the ten years preceding the end of the assessment year in which seized material is received by the assessing officer. In this regard, the objection has been disposed vide letter dated by the under signed accepting the contention of the assessee and intimated to remedial action will be taken as per the provision of income Tax Act,1961 for the A.Y. 2010-11."

6. In view of the above, Mr. Rai, learned counsel for the respondents could not dispute the position in law that such recourse could not have been taken to by the Assessing Officer having once expressed an opinion on merits and taken a decision.

7. We, accordingly, allow the instant writ petition and quash the order dated 10 March 2024 to the aforesaid extent. We hold that it would be impermissible for the AO to review or reopen proceedings pertaining to AY 2010-11. The petitioner shall be entitled to all consequential reliefs.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MARCH 22, 2024/neha