$~45

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

\+ W.P.(C) 7334/2023, CM APPL. 28522/2023

SHASHI BALA JAIN ..... Petitioner

Through: Mr. Mani Bhadra, Adv.

versus

UNION OF INDIA & ORS. ..... Respondent

Through: Mr. Atul Krishna, SPC for UOI Mr. Sanjay Kumar, Mr. Easha, Ms. Hemlata Rawat, Advs. for ITD.

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

O R D E R

% **01.04.2024**

1. Although the order sheet would reflect that the respondents had been granted time to file a counter affidavit, no affidavit in opposition to the writ petition has been filed till date.

2. Having perused the material placed on our record as well as the notice which stands issued and is dated 27 July 2022 and pertains to Assessment Year 2017-18, we are of the considered opinion that the challenge would have to succeed bearing in mind the judgment rendered by the Court in **Twylight Infrastructure (P) Ltd. v. CIT** [2024 SCC OnLine Del 330].

3. We accordingly allow the instant writ petition and set aside the impugned order dated 27 July 2022 passed under Section 148A(d) of the Income Tax Act, 1961 and consequential proceedings initiated thereto, subject to liberty being 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.

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.

30. Needless to add, the rights and contentions of both the sides will remain open, in the event the revenue triggers reassessment proceedings."

4. The writ petition is disposed of accordingly.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

APRIL 01, 2024/neha