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

\+ W.P.(C) 5933/2024

SUDHIR AGGARWAL ..... Petitioner

Through: Mr. Sandeep Joshi and Mr. Sanjeev Kr. Choudhary, Advocates

Versus

INCOME TAX OFFICER DELHI TAX CIRCLE 16 1 & ORS. ..... Respondents

Through: Mr. Siddhartha Sinha, SSC with Ms. Dacchita Shahi and Ms. Anuja Pethia, Advs.
Ms. Leelawati Suman, Advocate for respondent No.3

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

O R D E R

% **29.04.2024**

CM APPL 24674/2024 (Exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 5933/2024 & CM APPL 24673/2024 (Stay)

1. The writ petitioner impugns the initiation of action under Section 148 of the Income Tax Act, 1961 [‘**Act**’].

2. One of the principal grounds of challenge which was addressed was that although originally and when the Section 148A(b) of the Act notice was issued, income which was alleged to have escaped assessment was pegged at Rs.94,96,446/-, ultimately, and during the course of assessment proceedings which were undertaken, the additions which are proposed have been placed at Rs.41.26 lakhs approximately and thus falling below the statutory limit of Rs.50 lakhs

as constructed in terms of Section 149(1)(b) of the Act. It is on the aforesaid basis that the petitioner seeks quashing of the impugned proceedings.

3. We find ourselves unable to sustain that challenge bearing in mind the indubitable fact that the prescription of Rs.50 lakhs would be applicable at the stage of issuance of notice and not one which would apply post the conclusion of assessment proceedings. At the stage of issuance of notice, the Assessing Authority is only liable to record its satisfaction that the income which has escaped assessment is “likely to” be in excess of Rs. 50 lakhs. Merely because and ultimately the escaped income is found to fall below that threshold would not be a ground relevant for quashing the reassessment proceedings itself.

4. The other grounds which are canvassed for our consideration and which pertained to cost of acquisition do not give rise to any jurisdictional questions which may warrant the invocation of our extraordinary jurisdiction conferred by the Article 226 of the Constitution.

5. Accordingly, while we dismiss the instant writ petition at this stage, we leave all rights and contentions of the writ petitioner-assessee open to be addressed either in the ongoing assessment proceedings or other statutory remedies that may be invoked against the final assessment order.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

APRIL 29, 2024

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