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

\+ W.P.(C) 6127/2024

LEZINI METALS PRIVATE LIMITED ..... Petitioner

Through: Mr. Ruchesh Sinha & Ms. Shilpa Chaudhary, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 13 (1) DELHI & ANR. ..... Respondents

Through: Mr. Shlok Chandra, SSC with Ms. Madhavi Shukla & Ms. Priya Sarkar, JSCs & Mr. Sudarshan Roy, Adv.

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

ORDER

% **01.05.2024**

CM APPL. 25439/2024 (Exemption)

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

W.P.(C) 6127/2024 & CM APPL. 25438/2024 (Stay)

3. The writ petitioner impugns the order under Section 148A(d) of the Income Tax Act, 1961 ["**Act**"] dated 30 March 2024 as well as the consequential notice under Section 148 of the Act. The proceedings themselves emanated from a notice dated 21 March 2024 under Section 148A(b) of the Act which had been issued alleging the following:

"Notice under clause (b) of Section 148A of the Income-Tax Act, 1961

Sir/Madam/M/s

Whereas I have information which suggests that income chargeable to tax for the Assessment Year **2017-18** has escaped assessment within the meaning of section 147 of the Income-tax Act, 1961. The details of the information/ enquiry conducted on which reliance is being placed, along with supporting documents, are enclosed with this notice.

2. You are required to show-cause as to why, in view of the details contained in enclosures mentioned in point number 1 above, a notice section 148 of the Income tax Act, 1961 should not be issued.

3. You may submit your reply to this notice, along with supporting documents (if any) on the above mentioned issues on or before **29/03/2024** electronically at www.incometax.gov.in."

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ANNEXURE

Background : -

1. 1. The case of the assessee has been flagged as the potential case as per Risk Management Strategy formulated by the CBDT out of information uploaded on High Risk Transaction functionality of the Insight Portal.

2. Brief Facts: -

2.1 Return declaring income of Rs. 69.255 lakhs was filed on 25.10.2017. The same was processed under section 14(1)(a) on 02.03.2018.

2.2 Verification of STR in the case of M/s Metal Impex, Prop. Sh Naveen Tayal reveals that it is a shell entity and carrying out such high value transactions to provide accommodation entries to various beneficiaries including the abovementioned assessee and earn commission income.

2.2 Bank statement bearing account No. 914020041615861, Axis Bank Ltd, of M/s Metal Impex Prop. Sh Naveen Tayal was analyzed. On perusal of the bank statement, it is revealed that the assessee has taken accommodation entries to the tune of Rs.1,61,19,174/- (debit : Rs. 1,52,00,000 and credit of Rs. 9,19,174), seem to be bogus and non-genuine for the assessment year under consideration.

3. In view of the above, an amount of Rs. 1,61,19,174/- appears to have escaped assessment for the AY. 2017-18 which needs to be brought to tax by issuing notice u/s 148 of the Income Tax Act, 1961.

4. Accordingly, you are hereby required to show cause as to why proceedings u/s 148 of the Act may not be initiated to bring to tax

the above said amount of Rs. 1,61,19,174/- for AY 2017-18.

5. Your reply with all the documentary evidences in support of your contention should be furnished on ITBA Portal latest by 29.03.2024, failing which it will be presumed that you have nothing to say in this regard and necessary steps shall be taken to initiate the proceedings as per provisions of I.T. Act. This issues as per provisions of sec. 148A(b) of the Income Tax Act, 1961.

6. Please note that in case the company has been merged/amalgamated with other company, you are required to furnish necessary supporting document/evidence that the above receipts/incomes have been taken into account for computation of Income of the transferee company for the relevant Assessment Year. You are also required to provide a copy of the order of the relevant authority/court ordering merger/amalgamation.

RAVINDER GUPTA

CIRCLE 13(1), DELHI"

4. As is manifest from the above, the respondents appear to have taken into consideration certain bank statements pertaining to M/s Metal Impex, Prop. Sh. Naveen Tayal ["**Metal Impex**"] with which the petitioner undisputedly had some dealings. It was alleged by the respondents that the aforesaid transactions were merely accommodation entries and on the basis whereof they proceeded to form the tentative opinion that income appeared to have escaped assessment.

5. While responding to the aforesaid notice, all that the petitioner did was to call upon the respondents to produce the Suspicious Transaction Report ["**STR**"] or any other material on the basis of which those details may have been collated. In the reply there was neither a denial of the transactions having been entered into with M/s Metal Impex nor did the petitioner deem it appropriate to produce the GST invoices and other material which have been placed for our consideration along with the writ petition.

6. In our considered opinion, therefore, the writ petitioner has

failed to make out a case which may warrant interference under Article 226 of the Constitution. The writ petition shall consequently stand dismissed.

7. This order, however, shall be without prejudice to the rights and contentions of the petitioner which shall be open to be addressed before the Assessing Officer.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MAY 01, 2024/kk