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

\+ W.P.(C) 6647/2024

PRAVEEEN KUMAR BHARDWAJ ..... Petitioner
Through: Mr. Rajat Navet, Adv.

versus

ASSISTANT COMMISSIONER OF INCOME TAX & ANR. ..... Respondents
Through: Mr. Sunil Agarwal, SSC with Mr. Shivansh B. Pandya, JSC & Mr. Utkarsh Tiwari, Adv.

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

O R D E R

% **09.05.2024**

CM APPL. 27680/2024 (Ex.)

1. Allowed subject to all just exceptions.

2. Application stands disposed of.

WP(C) 6647/2024 & CM 27679/2024 (stay)

3. We take note of the challenge which stands raised in the present writ petition and where the following reliefs are claimed:

> a) Issue an appropriate writ in the nature of mandamus or in any other nature quashing the entire reassessment proceedings in the case of the Petitioner under Section 148 & 148A for the Assessment Year 2017-18; and/or
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> b) Issue an appropriate writ in the nature of certiorari or any other appropriate writ, order and/or direction quashing the Order dated 31.03.2024 *(Annexure P-5)* passed by the Respondent under Section 148A(d) of the Income Tax Act, 1961 as well as for quashing of the notice dated 31.03.2024 *(Annexure P-6)* issued under Section 148 of the Act pursuant thereto for the Assessment Year 2017-18; and/or
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> c) Stay the effect and operation of the impugned Order dated 31.03.2024 & Notice dated 31.03.2024 and stay further

proceedings under Section 147/148 of the Act for the A.Y. 2017-18; and

(d). Pass such further order/orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

4. Quite apart from the jurisdictional issue which stands raised in the writ petition we note that the notice under Section 148A(b) of the Income Tax Act, 1961 [“**Act**”] was issued to the petitioner on 15 February 2024. Although the petitioner submitted a response on 26 February 2024, the order under Section 148A(d) of the Act proceeds on the premise that no reply had been submitted.

5. In view of the admitted position which emerges from the record, Mr. Agarwal, learned counsel appearing for the respondents, submitted that the writ petition rather than being retained on the board of this Court, may merit final disposal with the matter being remitted to the Assessing Officer [“**AO**”] to re-commence proceedings from the stage of Section 148A(d).

6. We accordingly allow the instant writ petition and set aside the final order and notice dated 31 March 2024 issued under Section 148 of the Act. The matter shall stand remitted to the AO to re-commence proceedings from the stage of 148A(d), after taking into consideration the reply dated 26 February 2024 which has been submitted by the petitioner. All rights and contentions of respective parties are kept open.

YASHWANT VARMA, J

PURUSHAINDRA KUMAR KAURAV, J

MAY 9, 2024/kk