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

\+ W.P.(C) 9531/2023 & CM APPL. 36455/2023 (Interim Relief)

VALMIK THAPAR .....Petitioner

Through: Mr. Salil Aggarwal, Sr. Adv. with Mr. Uma Shankar & Mr. Madhur Aggarwal, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX 52 (1) AND ORS. .....Respondents

Through: Mr. Debesh Panda, SSC with Ms. Zehra Khan, Mr. Vikramaditya Singh, JSCs, Ms. Anauntta Shankar & Mr. Ruchir Joshi, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

O R D E R

% 23.09.2024

1. The writ petitioner seeks quashing of the notice under Section 55A of the Income Tax Act, 1961 [‘**Act**’] dated 16 May 2023 as also the consequential proceedings which have been initiated by the Department Valuation Officer [‘**DVO**’]. The challenge itself stands mounted in the following backdrop.

2. We are concerned with Assessment Year [‘**AY**’] 2010-11 and in respect of which a Return of Income is stated to have been submitted on 26 July 2010. On 16 March 2013, the Assessing Officer [‘**AO**’] is stated to have issued a notice under Section 147 of the Act and passed an order of assessment on 26 March 2013 restricting the benefit of claim of index cost of acquisition of an immovable property. The aforesaid findings came to be affirmed by the Commissioner of

Income Tax (Appeals) ['**CIT(A)**'] in terms of its order of 25 September 2014. However, the said authority did accord relief to the petitioner assessee insofar as deductions under Section 54EC is concerned.

3. This led to both the petitioner as well as the Revenue instituting appeals before the Income Tax Appellate Tribunal ['**Tribunal**']. On 11 June 2021, the Tribunal dismissed the appeal preferred by the Revenue. However, and insofar as the appeal of the petitioner assessee were concerned, the same was allowed except insofar as the challenge to the reopening of assessment was concerned.

4. We may only for the sake of completeness note that insofar as the findings of the Tribunal adverse to the writ petitioner and which stood confined to Section 148 is concerned, the same forms subject matter of ITA 182/2021 which is presently pending consideration before us.

5. Pursuant to the operative directions as framed, the Tribunal remitted the matter to the AO with a direction for the issue of determination of fair market value being referred to the DVO.

6. It however, transpires that although proceedings appear to have been initiated by the DVO thereafter, the same, according to the writ petitioner, would clearly be barred by time since the period for completion of an assessment for AY 2010-11 would have lapsed on 31 March 2023. This contention rests on the unambiguous provisions which stand encapsulated in sub-sections (3) and (5) of Section 153 of the Act.

7. It was in the aforesaid context that the respondents had been called upon to obtain instructions and apprise the Court of any further proceedings that may have been taken or accomplished.

8. We are today informed by learned counsel appearing for the respondents on instructions, that the DVO has stated that it had received a letter dated 08 May 2023 issued by the DCIT on 15 May 2023 and which had as an enclosure a copy of an earlier letter dated 07 February 2023 requesting the DVO to ascertain the fair market value of the property. It is thus manifest that the respondents had failed to conclude and finalize the assessment prior to 31 March 2023.

9. In view of the aforesaid position, and which is conceded to by the respondents, we find ourselves unable to sustain the notice issued referable to Section 55A.

10. The writ petition is accordingly allowed. The impugned notice dated 16 May 2023 is hereby quashed. The petitioner shall be entitled to all consequential reliefs.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J

SEPTEMBER 23, 2024/rw