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

\+ W.P.(C) 9734/2023

VIKAS RAJ .....Petitioner

Through: Mr. Vikas Jain, Mr. Aviral Saxena & Ms. Shrawani, Advocates.

versus

INCOME TAX OFFICER & ORS. .....Respondents

Through: Mr. Aseem Chawla, SSC with Ms. Naincy Jain, JSC, Ms. Pratishtha Chaudhary, Mr. Naveen Rohila, Advocates.

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

O R D E R

% 04.07.2024

1. This writ petition has been preferred seeking the following reliefs:-

> "a. That this Hon'ble Court may issue a writ in the nature of certiorari for quashing of Notice u/s 148 dated 07.06.2021 of an Act being illegal, bad in law and without jurisdiction.
> b. That this Hon'ble Court may issue a writ in the nature of certiorari for quashing of assessment order u/s 144B dated 30.05.203 being illegal, bad in law and without jurisdiction.
> c. That this Hon'ble Court may issue a writ in the name of certiorari for quashing of notices dated 30.05.2023.
> d. That this Hon'ble Court may issue a writ in the nature of mandamus to direct the income tax department to pass assessment order after giving opportunity of hearing to the petitioner.
> e. That this Hon'ble Court may issue a writ in the nature of mandamus to stay the operation of order dated 30.05.2023."

2. Before us, it is fairly conceded by the learned counsels appearing for respective sides that the challenge here is liable to be sustained bearing in mind the judgment rendered by the Court in **Twylight Infrastructure Pvt Ltd. vs. Income Tax Officer Ward**

25(3) Delhi & Ors. [2024 SCC OnLine Del 330] as well as the decision in **Ganesh Dass Khanna vs. Income Tax Officer & Anr [**2023 SCC OnLine Del 7286].

3. In view of the aforesaid, we allow the instant writ petition and quash the notice under Section 147 of the Income Tax Act, 1961 dated 07 June 2021 bearing in mind the liberty which stood reserved in *Twylight Infrastructure* and stands reflected in Paragraph Nos. 28 to 30:-

> "**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.
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> **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.
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> **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 petition stands disposed of on the aforesaid terms.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

JULY 4, 2024/*sk/RM*