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

\+ W.P.(C) 10066/2023, CM APPL. 38730/2023 & CM APPL. 60252/2023

UNNATI FORTUNE INDUSTRIES PRIVATE LIMITED
.....Petitioner

Through: Ms. Maulshree Pathak & Mr. Harshit Pandey, Advocates.

versus

INCOME TAX DEPARTMENT & ORS. .....Respondents

Through: Mr. Puneett Singhal & Ms. Priya Sarkar, Standing Counsels for ITD

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

O R D E R

% **02.12.2024**

1. The petitioner has filed the present petition, *inter-alia*, impugning a notice of demand dated 26.05.2023 issued under Section 156 of the Income Tax Act, 1961 (hereafter *the Act*) as well as a penalty notice dated 26.05.2023, issued under Section 274 read with Section 271(1)(b) of the Act.

2. A plain reading of the notice of demand issued under Section 156 of the Act, for a sum of ₹30,93,709/-, indicates that the same is in respect of assessment year 2013-14. Admittedly, the petitioner had undergone a Corporate Insolvency Resolution Process and by an order dated 01.07.2020, the learned National Company Law Tribunal had approved the Resolution Plan filed by One City Infrastructure Private Limited. Concededly, all dues

which were not reflected in the approved Resolution Plan are now unrecoverable. The said issue is covered by the decision of Hon'ble Supreme Court in ***Ghanashyam Mishra and Sons Private Ltd. v. Edelweiss Asset Reconstruction Co. Ltd through the Director and Others: (2021) 9 SCC 657.***

3. In view of the above, the present petition is allowed and the impugned notice of demand is set aside. Consequently, any notice levying penalty for non-payment of the said amount is also set aside.

4. The petition is disposed of in the aforesaid terms. All pending applications are also disposed of.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

DECEMBER 02, 2024/*at*

Click here to check corrigendum, if any