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

\+ W.P.(C) 7987/2024 & CM APPL. 32936/2024 (interim relief)

SHREE BALAJI CONSTRUCTION CO .....Petitioner

Through: Mr. Madhav Bhatia & Mr. Shreyuss Shankar Joshi, Advs.

versus

INCOME TAX OFFICER WARD 43(6) & ANR. .....Respondents

Through: Mr. Puneet Rai, SSC with Mr. Ashvini Kumar & Mr. Rishabh Nangia, Advs.

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

O R D E R

% 26.07.2024

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

> "a) Issue a suitable writ/order/direction setting aside/quashing the Impugned Orders dated 09/04/2024 issued by the Respondent No. 1under Section 148A (d) and Section 148 of the Income Tax Act, 1961 (Annexure P-1 and Annexure P-2) and all consequential proceedings emanating therefrom;"

2. The challenge which stood raised and which was principally based on a violation of principles of natural justice came to be succinctly noticed by us in our order of 29 May 2024 and which is reproduced herein below:-

> "1. On hearing learned counsel for the writ petitioner we find that the initial notice under Section 148A(b) of the Income Tax Act, 1961["**Act**"] had been issued on 21 March 2024 and had required the petitioner to furnish a response by 28 March 2024. On that date, the writ petitioner requested for an extension of time for the submission of a reply to the aforesaid notice.

> 2. Although, the order under Section 148A(d) of the Act records that such an extension was in fact granted and in terms of which the petitioner was accorded time up to 08 April 2024 to submit a reply, it is alleged that the aforesaid extension was never communicated. The order under Section 148A(d) of the Act ultimately came to be passed on 09 April 2024. It is additionally asserted that the order has not been issued with the prior approval of the Chief Commissioner of Income Tax-3, Delhi as stated in the impugned orders."

3. Today Mr. Rai, learned counsel on instructions submits that although the order referrable to Section 148A(d) of the Income Tax Act, 1961 [**"Act"**] alludes to a communication in terms of which the petitioner was granted time upto 08 April 2024 to furnish a reply, the same could not be served or intimated to the petitioner.

4. In view of the aforesaid, we are of the considered opinion that order under Section 148A(d) of the Act as well as the consequential notice under Section 148 of the Act would be liable to be quashed on this short ground alone.

5. We accordingly allow the instant writ petition and quash the order dated 09 April 2024 under Section 148A(d) and the notice dated 09 April 2024 referrable to Section 148 of the Act.

6. We remit the matter to the desk of the concerned Assessing Officer ["**AO**"] who shall draw proceedings afresh from the stage of receipt of a reply from the petitioner and upon providing an opportunity of hearing to the writ petitioner.

7. The additional challenge with respect to the right of the jurisdictional AO to commence proceedings for reassessment are open to be addressed alongwith any other objection that may be taken to the reassessment action.

8. All rights and contentions of respective parties are kept open.

YASHWANT VARMA, J

RAVINDER DUDEJA, J

JULY 26, 2024
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