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

\+ W.P.(C) 12007/2023

WHIRLPOOL OF INDIA LIMITED .....Petitioner

Through: Mr. Neeraj Jain, Mr. Aniket D. Agarwal & Mr. Saksham Singhal, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX (OSD) RANGE - 10, NEW DELHI & ORS. .....Respondents

Through: Mr. Shlok Chandra, SSC with Ms. Madhavi Shukla & Ms. Priya Sarkar, JSCs , Mr. Sudarshan & Ms. Kavita Rani, Advs.

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

O R D E R

% **02.08.2024**

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

> "a) issue a writ in the nature of certiorari, mandamus or any other appropriate writ, order or direction, quashing the impugned intimation/ order dated 19.08.2023 passed under section 143(1) of the Act for assessment year 2022-23; or
> b) issue a writ in the nature of certiorari, mandamus or any other appropriate writ, order or direction, setting aside the impugned intimation/ order dated 19.08.2023 passed under section 143(1) of the Act and/or adjustments made therein for assessment year 2022-23 and directing that the retuned income be accepted as it is, and consequential refund claimed in the return be granted forthwith along with statutory interest;
> c) grant interim relief, staying the impugned order including

outstanding demand amounting to Rs.731,27,80,680 raised by the impugned order dated 19.08.2023 passed under section 143(1) of the Act, during pendency of the present petition;

d) grant ad-interim ex-parte stay in terms of prayer (c) above;"

2. Bearing in mind, the arbitrary demand which had come to be foisted upon the writ petitioner, we had entertained the same even though it raised a challenge to the Section 143 (1) of the Income Tax Act, 1961 [**"Act"**] intimation dated 19 August 2023.

3. We note that in terms of the said intimation the following three additions were proposed:-

> a. Addition/ adjustment of Rs.2386,70,11,218 has been made considering only figure of "increase in profit" as extracted in clause 14(b) of Form 3CD for valuation of inventory as per section 145A of the Act and completely overlooking/ ignoring the corresponding figure of "decrease in profit" in the same clause; Respondent No.2 has, instead of considering the net figure, which is Nil, added the gross figure of "increase in profit".
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> b. Addition/ adjustment of Rs. 8,89,001/- has been made by not considering the entire figure of leave encashment disclosed in in clause 26 of the tax audit report amounting to Rs. 16,51,30,477/- corresponding with the figure mentioned in the return of income of Rs. 16,51,30,477/- and fictionally only considering Rs. 16,42,41,476/- as the amount paid towards leave encashment.
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> c. Addition/ adjustment of Rs. 10,15,03,153/- has been made by alleging that the amounts allowable during the year under section 43B of the Act were reported in return of income at Rs. 10,58,24,838/- and Rs. 43,21,685/- in the tax audit report, without appreciating that the entire amount of Rs. 10,58,24,838/- was duly disclosed in the tax audit report and the actually paid during the year.

4. We are informed that subsequently, and in terms of a rectification order dated 28 November 2023, the principal addition of INR 23,86,70,11,218/- has been deleted.

5. In view of the aforesaid, the writ petitioner has already been extended partial and substantial relief.

6. Insofar as the other additions are concerned, we accord liberty to the writ petitioner to adopt the alternate remedy of preferring an

appeal. All rights and contentions of respective parties on merits are kept open.

7. Subject to the aforesaid, this writ petition shall stands disposed of.

YASHWANT VARMA, J

RAVINDER DUDEJA, J

AUGUST 2, 2024/sk