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

\+ W.P.(C) 9070/2024

EXL SERVICE MAURITIUS LTD .....Petitioner

Through: Mr. Ajay Vohra, Sr. Advocate with Mr. Neeraj Jain, Mr. Aniket D. Agrawal & Mr. Saksham Singhal, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX & 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

% 05.07.2024

CM APPL. 37083/2024 (Ex.)

Allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 9070/2024 & CM APPL. 37082/2024 (Stay)

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

> "(i) issue a writ in the nature of certiorari/ mandamus or any other appropriate writ, order or direction for quashing (a) the notice dated 18.03.2024 issued under section 148A(b), (b) the order dated 03.04.2024 passed under section 148A(d), and the consequent initiation of reassessment proceedings vide notice dated 03.04.2024 issued under section 148 of the Income Tax Act, 1961 in the case of the Petitioner for assessment year 2020-21, and all proceedings/ actions consequent thereto;
> (ii) grant ad-interim ex-parte stay on the reassessment proceedings initiated under sections 147/148 of the Act vide the impugned notice dated 03.04.2024 issued under section 148 of the Act, and/or

any other proceedings initiated thereunder for the assessment year 2020-21, during pendency of the present petition."

2. The petitioner is essentially aggrieved by the initiation of the proceedings under Section 148 of the Income Tax Act, 1961 ['**Act'**] which pertains to Assessment Year [**'AY'**] 2020-21. It appears that although a notice was initially issued under Section 148A(b), the same was not responded to by the writ petitioner. It is the case of writ petitioner that the same got archived in its email account and came to light only subsequently. However, and undisputedly, the petitioner did respond to the subject notice under Section 133 (6) which had been issued by the respondents.

3. From the material placed on the record, we find that the subject transaction pertained to the transfer of shares which was affected by the writ petitioners from one wholly owned subsidiary *Inductis (India) Pvt. Ltd.* to another subsidiary *Exlservice.com (India) Pvt. Ltd.*

4. The orders impugned before us, however, proceeds on the premise that the petitioner had made huge investments and that taxable income had escaped. There is thus, an evident disconnect between the disclosures which were made and the ultimate order under Section 148A(b) which is going to be passed.

5. In view of the aforesaid, we are of the considered opinion that the ends of justice would warrant the order under Section 148A(d) as well as the consequential notice under Section 148 being quashed and set aside and the matter being reinstated to the stage of Section 148A(b) with rights being reserved to the petitioner to respond to the same and for further proceedings being taken thereafter in accordance with law.

6. Accordingly, we allow the present writ petition and quash the impugned orders under Section 148A(d) and under Section 148. The matter shall stand remitted to the desk of the Assessment Officer [‘**AO**’] who shall recommence the proceedings now from the stage of the Section 148A(b) notice. The AO shall provide adequate opportunity to the petitioner to respond and to proceed thereafter in accordance with law.

7. All rights and contentions of respective parties shall stand reserved.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

JULY 5, 2024/*RM/SK*