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

\+ W.P.(C) 9260/2024

SUKHDEEP SINGH CHADHA .....Petitioner

Through: Mr. P. Roychaudhuri, Adv.

versus

ACIT, CIRCLE INTERNATIONAL TAXATION - 1(2)(1), DELHI .....Respondent

Through: Mr. Vipul Aggarwal, SSC.

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

O R D E R

% **09.07.2024**

CM APPL. 37932/2024 (Ex.)

1. Allowed subject to all just exceptions.

2. Application stands disposed of.

WP(C) 9260/2024 & CM. APPL. 37931/2024 (interim relief)

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

> (A) A Writ of Certiorari to call for the records relating to the Impugned Order under 148A(d) of the Income Tax Act and also the Impugned Notice under section 148 of the Income Tax Act, 1961 both dated 30.03.2024 issued by the Respondent in the Petitioner's case for the Assessment Year;
>
> (B) Pass such other and further order/orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

4. The petitioner is essentially aggrieved by the reassessment action which has been initiated by the respondents pursuant to a notice dated 12 March 2024 under Section 148A(b) of the Income Tax Act, 1961 ["**Act**"].

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5. As is manifest from a perusal of the said notice the same pertained to Assessment Year ["**AY**"] 2020-21 and proceeded on the premise that the petitioner had failed to disclose details with respect to a house property which was purchased in Dubai and the rental income generated therefrom having not been disclosed. It is on the aforesaid basis that the Assessing Officer ["**AO**"] had come to conclude that that there existed reason to believe that income from house property had escaped assessment in AY 2020-21.

6. In response to the aforesaid notice, the petitioner had categorically asserted that the residential unit had been purchased in Financial Year ["**FY**"] 2007-08 and had been sold in FY 2014-15. Consequently, it was averred that there could not possibly exist any justification for initiating reassessment proceedings for AY 2020-21. It also appears to have been submitted before the AO that the petitioner was a Non-Resident Indian ["**NRI**"] in the relevant AY and consequently could not have been subjected to tax under the Act.

7. However, as we read the order under Section 148A(d) of the Act, it is manifest that there has been an admitted failure on the part of the AO to either notice or consider the objection so raised. In our considered opinion, the assertion of the petitioner being an NRI, as well as the details with respect to the purchase and sale of the property, went to the very root of the jurisdiction of that authority to assume powers under Section 148.

8. In view of the above, and since the aforesaid facts could not be disputed on behalf of the respondents, we are of the considered opinion that the writ petition is liable to succeed.

9. We accordingly allow the instant writ petition and set aside the order under Section 148A(d) as well as the notice under Section 148

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of the Act, both dated 30 March 2024.

10. We direct the AO to re-examine the matter bearing in mind the two principal objections of the petitioner which have been noticed above, as also any other contention that may be addressed and canvassed by the writ petitioner before proceeding further.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

JULY 9, 2024/kk

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