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

\+ W.P.(C) 9316/2024

AEGIS FINSTATE LLP .....Petitioner

Through: Ms. Rano Jain, Mr. Venketesh Chaurasia, Mr. Mayank Patawari, Ms. Shakshi Rustagi, Advocates.

versus

ACIT, CIR 43(1), DELHI & ANR. .....Respondents

Through: Mr. Puneet Rai, SSC with Mr. Ashvini Kumar, Mr. Nikhil Jain and Mr. Rishabh Nangia, Advocates.

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

O R D E R

% **10.07.2024**

CM APPL. 38146/2024 (Ex)

Allowed, subject to all just exceptions.

This application stands disposed of.

W.P.(C) 9316/2024 & CM APPL. 38145/2024 (for interim relief)

1. The writ petitioner is aggrieved by the issuance of the order under Section 148A(d) of the Income Tax Act, 1961 ["**Act**"] dated 10 April 2024 as also the notice under Section 148 of the Act of the same date.

2. We note that the Section 148A(b) notice had been issued on 22 February 2024 and in terms of which the petitioner was called upon to explain certain transactions undertaken in respect of sale of equity shares, purchase of mutual fund units and future derivatives. In response to the aforesaid notice, the petitioner submitted a copious

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reply which has been dutifully reproduced in the order under Section 148A(d) of the Act. Further an additional notice under Section 148A(b) was issued on 30 March 2024, to which the petitioner filed its reply on 06 April 2024.

3. However, while dealing with the objections which were so raised to the proposed reassessment, all that the Assessing Officer [**"AO"**] has chosen to observe is as follows:-

> "6. Remarks of the AO: The assessee in his reply has submitted ITR, Computation of Income, Balance Sheet, Profit and Loss account, trading and manufacturing account, bank statement of current accounts, trading account with Almondz Global Securities Limited, capital account of Mr. Anubhav Poddar; Bonds Account with Almondz Global Securities Limited, AlmondzFinanz Limited, ledger account of HSBC Income Fund, calculation sheet for capital gain on sale of bonds, HSBC Income Fund units, equity shares, profit on intra day transaction, payment of STT on shares sold and other details. Further, on perusal of the details/documents filed by the assesse, all the transactions are duly reflected in the Insight Portal, TDS Statement and annual Tax Statement under section 203AA of the Income Tax Act 1961/26AS and Taxpayer Annual summary, it is established beyond doubt as under:
> a. <u>The assesse has shown both long term and short term capital gains. Short term capital gains was declared at Nil by the assessee as per the ITR and replies submitted but the sale is with respect to sale of bonds for which no details have been submitted this was sold at 23,06,00,555. This needs to be verified during assessment proceedings. Long Term Capital Gain on sale of shares through stock exchange on which STT has been paid of Rs. 23,66,94,598/- (i.e.Sale Consideration of Rs. 23,84,1 0,509/. Again this sale amount needs to be verified and requires assessment proceedings as exact units of shares sold and whether it is a long term capital gain or not needs to be verified and third party verifications need to be done</u>."

4. It is thus ex facie evident that the AO has clearly failed to either evaluate the explanation which was tendered by the petitioner or to deal with the objections which were voiced to the proposed reassessment. We were thus inclined to set aside the order enabling the AO to commence proceedings afresh from the stage of Section

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148A(b) of the Act bearing in consideration the reply of the petitioner which had been submitted.

5. In view of the aforesaid, Mr. Rai, learned counsel appearing for the respondents submitted that the course as suggested would subserve the ends of justice.

6. Accordingly and for the reasons aforenoted, we allow the instant writ petition and set aside the order under Section 148A(d) of the Act dated 10 April 2024 as well as the notice referrable to Section 148 dated 10 April 2024. The matter shall stand remitted to the AO who shall commence proceedings afresh from the stage of Section 148A(b) and proceed in the matter after taking into consideration the replies which had been submitted by the writ petitioner.

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

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

JULY 10, 2024/*vp*

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