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

\+ W.P.(C) 10246/2024

NIRMALA GUPTA .....Petitioner

Through: Ms. Kavita Jha, Mr. Vaibhav Kulkarni and Mr. Himanshu Aggarwal, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX & ANR. .....Respondents

Through: Mr. Abhishek Maratha, Sr. SC with Mr. Apoorv Agarwal, Jr. SC, Mr. Parth Sanwal, Jr. SC, Ms. Nupur Sharma, Mr. Gaurav Singh, Mr. Bhanukaran Singh Jodha and Mr. Nimit Saigal, Advocates.

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

O R D E R

% 26.07.2024

CM APPL. 42015/2024 (Exemption)

Allowed, subject to all just exceptions.

This application stands disposed of.

W.P.(C) 10246/2024 & CM APPL. 42014/2024 (Stay)

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

> "a) Issue writ of certiorari or writ, order or direction in the nature of certiorari, or any other appropriate writ, order or direction under Article 226/227 of the Constitution of India, quashing notices dated 28.02.2024 & 16.03.2024 issued under section 148A(b) of the Act;
>
> b) Issue writ of certiorari or writ, order or direction in the nature of certiorari, or any other appropriate writ, order or direction under Article 226 / 227 of the Constitution of India quashing impugned

> order dated 30.03.2024 passed under section 148A(d), to the extent adverse findings have been rendered against the erstwhile company, and consequential notice of even date issued under section 148 of the Act in the case of the Petitioner for assessment year 2017-18, and all actions/ proceedings consequential thereto;
>
> c) Such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. The petitioner is aggrieved by reassessment initiated by the respondents and which commenced pursuant to a notice under Section 148A(b) of the Income Tax Act, 1961 ["**Act**"] dated 16 March 2024 pertaining to Assessment Year 2017-18.

3. As we peruse the ultimate order that has come to be passed in Section 148A(d) of the Act, we find that despite a detailed reply having been submitted and petitioner/assessee having raised various jurisdictional questions pertaining to the assumption of jurisdiction, the Assessing Officer ["**AO"]** has merely observed as follows:-

> "7.1 The submissions of the assessee is considered and seen, it is evident that on the basis of the STR generated in Ajay Fincap Consultants suspicious arisen for transactions with respect to the assessee. The assessee has received advanced amount from various entity and submitted confirmation for the same, however, the creditworthiness of these entities and genuineness of these transactions are not verifiable at this stage. No entries of loan and advances are reflected in Schedule Part-A-BS of the ITR filed for AY2017-18., therefore, these advanced entries are not commensurate with the ITR filed during the year."

4. It is thus manifest that the AO has failed to either consider and deal with the various objections which had been raised by the petitioner. Faced with the above, it was the stand of the respondents that rather than the matter being retained on the board of this Court, the ends of justice may merit the matter being remitted for the consideration of the AO.

5. In view of the aforesaid, we allow the instant writ petition and quash the impugned order dated 30 March 2024 under Section

148A(d) as well the consequential notice of the same date under Section 148 of the Act. The matter shall stand remanded to the desk of the concerned AO who shall pass fresh orders after taking into consideration the reply that has been tendered by the petitioner. The AO may also bear in consideration the contention of the petitioner of the proposed reassessment being liable to be dropped in light of the case for reassessment against the individual assessee having been brought to a close.

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

YASHWANT VARMA, J

RAVINDER DUDEJA, J

JULY 26, 2024/neha