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

\+ W.P.(C) 26/2024 & CM APPL. 66/2024

KOSI AVIATION LEASING LIMITED
EARLIER KNOWN AS SKY AIRCRAFT
INDIAN ONE LIMITED ..... Petitioner

Through: Mr. Sachit Jolly, Ms. Disha Jham & Ms. Soumya Singh, Advs.

versus

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

Through: Mr. Sunil Agarwal, SSC with Mr. Shivansh B. Pandya, JSC & Mr. Utkarsh Tiwari, Adv.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

<u>O R D E R</u>

% **15.01.2024**

1. This writ petition questions the validity of the order passed under Section 148A(d) of the Income Tax Act, 1961 [“**Act**”] as well as the consequential notice issued under Section 148 of the Act dated 27 April 2022. One of the principal grounds of challenge was a failure on the part of the respondents to have complied with the procedure prescribed under Section 148A(b) of the Act.

2. Learned counsel for the petitioner had contended that no notice to show cause why jurisdiction of reassessment be not assumed had ever been served upon the writ petitioner. It was in the aforesaid context that we had granted time to Mr. Agrawal, learned counsel for the respondents, to obtain instructions.

3. Mr. Agrawal has today placed for our perusal a communication dated 31 March 2022 purporting to be the notice under Section 148A(b) of the Act. However, we have not been shown any material which may have established the mode and manner of service of that notice.

4. It was thus submitted by Mr. Agarwal that since the only issue which has been raised by the petitioner is an alleged failure to serve a notice under Section 148A(b), the matter may be remanded back to the Jurisdictional Assessing Officer for proceedings being initiated from that stage after giving an opportunity of hearing to the writ petitioner.

5. In view of the aforesaid, and in light of the statement made above, we allow the writ petition and set aside the impugned orders dated 27 April 2022. We accord liberty to the Assessing Officer to proceed from the stage of Section 148A(b) in accordance with law.

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

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

JANUARY 15, 2024/kk