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

\+ W.P.(C) 13541/2024 CM APPL. 56645/2024 CM APPL. 56646/2024

OSTRO JAISALMER PRIVATE LIMITED .....Petitioner

Through: Mr. Rohit Jain, Mr. Deepesh Jain and Mr. Sumarin Chaudhari, Advs.

versus

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

Through:

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

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

% **26.09.2024**

1. Issue notice.

2. Learned counsel for the respondents accepts notice.

3. The petitioner has filed the present petition, *inter-alia,* impugning an order dated 31.08.2024 (hereafter *the impugned order*), passed by respondent no. 3, imposing a penalty of ₹147 crores under Section 271E of the Income Tax Act, 1961 (hereafter *the Act*) in respect of Assessment Year 2018-2019. The impugned order proceeds on the basis that the petitioner has violated the provisions of Section 269T of the Act.

4. The petitioner claims that it had availed a loan of ₹293 crores from L&T Infrastructure Finance Company Limited (hereafter *L&T*) in the year 2015. Subsequently, in terms of the Deed of Assignment dated 28.06.2017, L&T assigned a part of the said loan, to the extent of ₹147 crores to a company named India Infradebt Limited (hereafter *Infradebt*). The petitioner is also a party to the said Deed of Assignment.

5. It is the case of the petitioner that the petitioner had made entries in its books of account, crediting the ledger account of Infradebt and debiting the

account of L&T. Its books of account now reflect that the petitioner owes an amount of ₹147 crores, out of a total outstanding of ₹293 crores, to Infradebt and ₹146 crores to L&T.

6. Concededly, if the facts as stated by the petitioner are correct, the same would not constitute violation of Section 269T of the Act. The said issue is covered by the decision of this Court in ***Commissioner of Income Tax VI v. Worldwide Township Projects Ltd.: (2014) 367 ITR 433 (Del)***.

7. In view of the above, we set aside the impugned order and remand the matter to the Assessing Officer to verify the facts as stated in the present petition. The petitioner shall file a copy of the ledger of account of L&T and Infradebt as maintained in its books of account, along with other documents that the petitioner considers necessary, to establish that there was no inflow or outflow of cash from Infradebt. And, the transaction is reflected solely by the book entries. The Assessing Officer will pass a fresh order after affording an opportunity of hearing to the petitioner.

8. The writ petition is disposed of in the aforesaid terms. Pending applications also stand disposed of.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

SEPTEMBER 26, 2024

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Click here to check corrigendum, if any