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

\+ W.P.(C) 14313/2024

ILC INFRACON LIMITED .....Petitioner

Through: Mr Gaurav Jain, Mr Rahul Prabhakar and Mr Shubhajm Gupta, Advocates.

versus

INCOME TAX OFFICER, WARD 12 (1) DELHI .....Respondent

Through: Ms Hemlata Rawat, Mr V.K. Saksena and Mr Dipak Raj, Advocates.

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

O R D E R

% **09.10.2024**

CM APPL. 59922/2024 (Exemption)

1. Exemption is allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 14313/2024 and CM APPL. 59921/2024

3. The petitioner has filed the present petition impugning an order dated 31.08.2024 passed under Section 148A(d) of the Income Tax Act, 1961 (hereafter *the Act*) as well as the notice dated 31.08.2024 issued under Section 148 of the Act in respect of assessment year 2017-18. The petitioner contends that the said notice was barred by limitation.

4. Concededly, this issue is covered by the decision of a Coordinate Bench of this Court in ***Manju Somani v. Income Tax Officer Ward-70(1) & Ors.: Neutral Citation : 2024:DHC:5411-DB.***

5. It is also relevant to refer to the recent decision of the Supreme Court in ***Union of India & Others v. Rajeev Bansal : 2024 SCC OnLine SC 2693***.

In the said decision, the Supreme Court has held as under:

> "46. The ingredients of the proviso could be broken down for analysis as follows: (i) no notice under Section 148 of the new regime can be issued at any time for an assessment year beginning on or before 1 April 2021; (ii) if it is barred at the time when the notice is sought to be issued because of the "time limits specified under the provisions of" 149(1)(b) of the old regime. Thus, a notice could be issued under Section 148 of the new regime for assessment year 2021-2022 and before only if the time limit for issuance of such notice continued to exist under Section 149(1)(b) of the old regime.
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> 49. The first proviso to Section 149(1)(b) requires the determination of whether the time limit prescribed under Section 149(1)(b) of the old regime continues to exist for the assessment year 2021-2022 and before. Resultantly, a notice under Section 148 of the new regime cannot be issued if the period of six years from the end of the relevant assessment year has expired at the time of issuance of the notice. This also ensures that the new time limit of ten years prescribed under Section 149(1)(b) of the new regime applies prospectively. For example, for the assessment year 2012-2013, the ten year period would have expired on 31 March 2023, while the six year period expired on 31 March 2019. Without the proviso to Section 149(1)(b) of the new regime, the Revenue could have had the power to reopen assessments for the year 2012-2013 if the escaped assessment amounted to Rupees fifty lakhs or more. The proviso limits the retrospective operation of Section 149(1)(b) to protect the interests of the assesses."

6. In view of the above, the present petition is allowed and the impugned order dated 31.08.2024 passed under Section 148A(d) of the Act and the

impugned notice issued under Section 148 of the Act are set aside.

7. The application is also disposed of.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

OCTOBER 09, 2024
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Click here to check corrigendum, if any