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

\+ W.P.(C) 14336/2024 CM APPL. 60073/2024 CM APPL. 60074/2024

NIRMALA GUPTA .....Petitioner

Through: Ms. Kavita Jha, Senior Advocate with Mr.Vaibhav Kulkarni and Mr. Aditya Beli, Advocates

versus

INCOME TAX OFFICER WARD 28(1) & ANR. .....Respondents

Through: Mr. Abhishek Maratha, SSC with Mr. Apoorv Agarwal and Mr. Parth Samwal, JSCs with Ms. Nupur Sharma Advocate

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

O R D E R

% 09.10.2024

1. The petitioner has filed the present petition, *inter alia*, praying as under:

> "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 notice dated 09.08.2024 issued under section 148A(b) of the Act for AY 2018-19;
>
> 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 30.08.2024 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 2018-19, 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 essentially aggrieved by the initiation of re-assessment proceedings for the assessment year (hereafter *AY*) 2018-19. The said proceedings were commenced by issuance of the notice dated 09.08.2024 under Section 148A(b) of the Income Tax Act, 1961 (hereafter *the Act*) referring to two amounts credited in the accounts of the petitioner—the first being a sum of ₹73,40,000/- and the second being a total credit of ₹1,37,51,93,558/-. The said credits, *inter alia,* did not match the ITR profiling of the assessee.

3. The assessee had furnished a detailed reply to the said notice explaining all the credit entries. The assessee had also stated that the allegation of unexplained credit of ₹73,40,000/- was premised on the investigation conducted in respect of one M/s Ajay Fincap Consultants Pvt. Ltd. (hereafter *Ajay Fincap*). The proceedings in relation to Ajay Fincap have since been dropped. In addition, the petitioner also provided the explanation for the credits in its books of accounts.

4. Notwithstanding the same, the Assessing Officer (hereafter *the AO*) passed an order dated 30.08.2024 under Section 148A(d) of the Act holding that it was a fit case for issuance of notice under Section 148 of the Act.

5. A plain reading of the said order indicates that the AO has not dealt with the detailed explanations as provided by the petitioner.

6. The learned counsel for the respondent fairly states that the matter be remanded to the AO for considering the petitioner's response afresh. He also points out that in respect of the AY 2017-18, a similar order passed under Section 148A(d) of the Act had been quashed by this Court by an order

dated 26.07.2024 in ***Nirmala Gupta v. Assistant Commissioner of Income Tax & Anr***: ***W.P. (C) 10246/2024.***

7. In view of the above, we set aside the order dated 30.08.2024 passed under Section 148A(d) of the Act as well as the notice dated 30.08.2024 issued under Section 148 of the Act and remand the matter to the AO. The AO shall consider the petitioner's response(s) to the impugned notice dated 09.08.2024 and decide it afresh within a period of six weeks from date.

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

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

OCTOBER 09, 2024

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Click here to check corrigendum, if any