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

\+ W.P.(C) 15379/2024, CM APPL. 64461/2024 & CM APPL. 64462/2024

JAINCO LTD

.....Petitioner

Through: Mr. Ved Jain, Mr. Nischay Kantoor, Ms. Soniya Dodeja and Mr. Divyansh Dubey, Advocates

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 31 DELHI & ORS.

.....Respondents

Through: Mr. Shlok Chandra, SSC with Ms. Naincy Jain and Ms. Madhuri Shukla, Jr. SCs with Mr. Sushant Pandey, Advocate for Income Tax Deparment.
Mr. Ashish Goyal, SPC with Mr. Sandeep Tyagi, Advocate for R-4.

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

O R D E R

% **04.11.2024**

1. Issue notice. The learned counsel appearing on behalf of respondents accepts notice.

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

> "...a. Stay the operation of the impugned order dated 31.08.2024 passed by Respondent No. 1 under section 148A(d) of the Act and notice dated 31.08.2024 issued by Respondent

No. 1 under section 148 of the Act till the disposal of this writ petition; and

b. Restraint the Respondents from continuing with the proceedings, in any manner, pursuant to impugned order and notice dated 31.08.2024, till the disposal of the present writ petition.

c. grant ad-interim ex-parte relief in terms of prayer (a) and (b) above; and

d. pass such further or other order/direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case..."

3. In addition to the aforementioned prayers, the petitioner also impugns Instruction No. 1/2023 dated 23.08.2023 issued by the Central Board of Direct Taxes (CBDT) to the extent that it provides for issuance of notices under Section 147/148 of the Act in respect of cases disposed of by the appellate authorities by relying on the judgment of the Supreme Court in ***Pr. CIT (Central-3) v. Abhisar Buildwell Pvt. Ltd.: [2023] 149 taxmann.com 399 (SC)***.

4. The learned counsel appearing for the Revenue fairly states that insofar as the challenge to the notices issued under Section 148A(b) and Section 148 of the Act are concerned, the said issue is covered by the decision of this Court in ***ARN Infrastructures India Ltd. v. Assistant Commissioner of Income Tax Cental Circle-28 Delhi & Ors.: Neutral Citation No.:2024:DHC:7423-DB.*** He, however, submits that the challenge to the CBDT's instruction (Instruction No. 1/2023) requires examination.

5. In view of the above, the learned counsel appearing for the petitioner submits that he will confine the present petition to prayer (a) as set out above.

6. In view of the same, the present petition is allowed and the impugned notices are set aside.

7. Accordingly, the present petition is disposed of.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

NOVEMBER 4, 2024

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Click here to check corrigendum, if any