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

\+ W.P.(C) 15588/2024

GREAT EASTERN ENERGY CORPORATION LIMITED
.....Petitioner

Through: Mr. Sachit Jolly, Ms. Mansha Anand, Mr. Abhyudaya Shankar Bajpai & Mr. Aditya Rathore, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX OSD DELHI & ANR.
.....Respondents

Through: Mr. Shlok Chandra, SSC with Ms. Naincy Jain & Ms. Madhavi Shukla, JSCs.

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

ORDER

% **21.11.2024**

CM APPL. 65385/2024 (Exemption)

1. Allowed, subject to all just exceptions.

2. The application is disposed of.

W.P.(C) 15588/2024

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

> "a. That this Hon'ble Court be pleased to issue a writ of Certiorari, or any other appropriate writ, order, or direction quashing the Impugned Show Cause Notice dated 08.08.2024, the Impugned Order dated 26.08.2024, and the Impugned Notice dated 26.08.2024, as passed by Respondent No. 1;

> b. Pass any other order(s) as this Hon'ble Court may deem to be fit and more appropriate in the facts and circumstances of the case"

4. The petitioner impugns an order dated 26.08.2024, passed under Section 148A(d) of the Income Tax Act, 1961 (thereafter *the Act*) as well as notice dated 26.08.2024 issued under Section 148 of the Act seeking to re-open the petitioner's assessment for assessment year (AY) 2018-19.

5. The present petition was listed on 08.11.2024 and this Court had passed the following order:

> "**W.P.(C) 15588/2024**
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> 3. The petitioner has filed the present petition, *inter alia,* praying as under:
>
> > "…a. That this Hon'ble Court be pleased to issue a writ of Certiorari, or any other appropriate writ, order, or direction quashing the Impugned Show Cause Notice dated 08.08.2024, the Impugned Order dated 26.08.2024, and the Impugned Notice dated 26.08.2024, as passed by Respondent No. 1;
> >
> > b. Pass any other order(s) as this Hon'ble Court may deem to be fit and more appropriate in the facts and circumstances of the case…"
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> 4. The petitioner was issued a notice dated 08.08.2024 under Section 148A(b) of the Income Tax Act, 1961 (hereafter *the Act*), *inter alia,* setting out the information which suggested that the petitioner's income for the assessment year 2018-19 had escaped assessment. It was alleged that the petitioner had availed of a loan of ₹6,00,00,000/- from an entity named M/s. Amritvani Exim Private Limited (hereafter *Amritvani*) and the said loan was bogus. It was stated that in addition there was unexplained income of ₹1,00,00,000/- pertaining to the transactions with Amritvani. It was alleged that Amritvani was found to be a shell/dummy entity.
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> 5. The petitioner responded to the said notice, setting out that, in fact, it had taken a loan of ₹1,00,00,000/- which

> was rolled over four times. And, there was no transaction of a sum of ₹6,00,00,000/- as alleged. The petitioner also submitted that the said transaction was a subject matter of examination in the regular assessment proceedings and, therefore, the information that the petitioner had taken a loan of ₹6,00,00,000/- or had reflected a loan of ₹6,00,00,000/- was factually incorrect.
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> 6. The objections raised by the petitioner were rejected on the ground that the Insight Portal reflected a transaction of ₹7,00,00,000/- and, therefore, there was information suggestive of the petitioner's income escaping assessment. *Prima facie,* the Assessing Officer (hereafter *the AO*) was required to examine whether there was, in fact, any material to substantiate that the petitioner had taken a loan of ₹6,00,00,000/- during the year under consideration. The question whether the information available on the Insight Portal was incorrect and without any basis, was not considered by the AO.
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> 7. Additionally, the AO had also rejected the petitioner's explanation on the ground that the premises of the entity in question (Amritvani) was examined and the company was not found at the given address. This allegation was not specifically set out in the notice issued under Section 148A(b) of the Act.
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> 8. In the aforesaid circumstances, this Court is *prima facie* of the view that the matter is required to be remanded to the AO to consider the petitioner's explanation afresh. The petitioner is also required to be given an opportunity to address the question whether the entity in question, namely, Amritvani is extant at the given address.
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> 9. The learned counsel appearing for the respondent seeks time to take instructions.
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> 10. List on 18.11.2024."

6. The learned counsel appearing for the Revenue submits, on instructions, that the matter may be remanded to the Assessing Officer (hereafter *the AO*) to consider afresh, in light of the observations made by this Court in the aforementioned order.

7. Mr. Jolly, the learned counsel appearing for the petitioner also points out that the petitioner had furnished a detailed response on the transactions, which are now set out as information suggestive of the petitioner's income escaping assessment for AY 2018-19 during the course of regular assessment. He referred to the petitioner's reply dated 22.03.2021 to the notices dated 25.02.2021 and 17.03.2021, issued under Section 142(1) of the Act, in regular assessment proceedings relating to the AY 2018-19. He also drew the attention of this Court to paragraph no. 5 and 7 of the said reply, which includes the petitioner's response to the query regarding genuineness of the transactions entered into by the assessee.

8. In view of the above, we further direct that the AO shall also take into account the contents of the present petition, as a part of the petitioner's response to the notice dated 08.08.2024 issued under Section 148A(b) of the Act.

9. The impugned order dated 26.08.2024 passed under Section 148A(d) of the Act, and the impugned notice dated 26.08.2024 issued under Section 148 of the Act are set aside.

10. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

NOVEMBER 21, 2024/*at*

Click here to check corrigendum, if any