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

\+ W.P.(C) 15851/2024 CM APPL. 66553/2024 CM APPL. 66554/2024(Exemption)

VINOD CHAND KHANNA .....Petitioner

Through: Mr. S. Krishnan and Mr. Harshit Chauhan, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX .....Respondent

Through: Mr. Sunil Agarwal, SSC, Mr. Shivansh B. Pandya, JSC, Mr. Viplav Acharya, JSC and Mr. Utkarsh Tiwari, Adv.

85

\+ W.P.(C) 15857/2024 CM APPL. 66575/2024 CM APPL. 66576/2024(Exemption)

MEENA BERY .....Petitioner

Through: Mr. S. Krishnan and Mr. Harshit Chauhan, Advs.

versus

INCOME TAX OFFICER .....Respondent

Through: Mr. Abhishek Maratha, SSC, Mr. Parth Semwal, JSC, Mr. Apoorv Agarwal, JSC, Ms. Nupur Sharma, Mr. Gaurav Singh, Mr. Bhanukaran Singh Jodha, Ms. Muskaan Goel, Mr. Himansh Gaur and Mr. Yamit Jetley, Advs.

86

\+ W.P.(C) 15861/2024 CM APPL. 66585/2024 CM APPL. 66586/2024(Exemption)

VINAY CHAND KHANNA .....Petitioner

Through: Mr. S. Krishnan and Mr. Harshit Chauhan, Advs.

versus

INCOME TAX OFFICER .....Respondent

Through: Mr. Abhishek Maratha, SSC, Mr. Parth Semwal, JSC, Mr. Apoorv Agarwal, JSC, Ms. Nupur Sharma, Mr. Gaurav Singh, Mr. Bhanukaran Singh Jodha, Ms. Muskaan Goel, Mr. Himansh Gaur and Mr. Yamit Jetley, Advs.

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

O R D E R

% **14.11.2024**

1. Issue notice.

2. The learned counsel appearing for the respondent accepts notice.

3. The petitioners in the present petitions challenge the notices dated 30.08.2024 under Section 148 of the Income Tax Act, 1961 (hereafter *the Act*) issued to them respectively for reopening of the assessment pertaining to the assessment year (AY) 2018-19. All the three petitioners had purchased shares of the property in question from the widow of their fourth sibling. Apparently, the purchase consideration paid was lower than the circle rate. It is on the aforesaid basis that the Assessing Officer (hereafter *the AO*) had issued notices dated 17.08.2024 under Section 148A(b) of the Act, seeking to tax the difference between the actual purchase consideration and the circle rate value of the property as income under Section 56(2)(x)(b) of the Act.

4. It is the petitioners' case that the said provision would not be applicable since the transaction was *inter se* relatives.

5. However, it appears that the said contention was not appreciated by the AO when orders dated 30.08.2024 under Section 148A(d) of the Act were passed in these cases.

6. *Prima facie*, by virtue of Section 56(2)(vii) of the Act, the difference between the circle rate value of the property and the purchase consideration could not be added in case of a transaction between the relatives.

7. Mr. Maratha, the learned counsel appearing for the Revenue states that it does not appear that the AO had the requisite material before it to take an informed decision in this regard. He suggests that the matter be remanded to the AO to consider it afresh. The said course commends to this Court.

8. Accordingly, the impugned notices dated 30.08.2024 issued under Section 148 of the Act and the orders dated 30.08.2024 passed under Section 148A(d) of the Act are set aside and the matter is remanded to the AO to consider it afresh. The AO shall consider the contents of the present petition as a response of the petitioners to the respective notices issued under Section 148A(b) of the Act and pass a fresh order.

9. Petitions are disposed of in the aforesaid terms. Pending applications, if any, also stand disposed of.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

NOVEMBER 14, 2024

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Click here to check corrigendum, if any