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

\+ **W.P.(C) 16207/2024 & CM APPL. 68094/2024**

ASHISH CHOUDHARY

.....Petitioner

Through: Ms Prem Lata Bansal, Sr Advocate with Mr Shivang Bansal, Advocate.

versus

CHIEF COMMISSIONER OF INCOME TAX DELHI-3 NEW DELHI & ANR.

.....Respondents

Through: Mr Indruj Singh Rai, SSC, Mr Sanjeev Menon and Mr Rahul Singh, JSCs, Mr Anmol Jagga, and Mr Prathvi Raj Dey, Advocates.

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

O R D E R

% **22.11.2024**

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

> "(a) a writ of certiorari or any other writ, order or direction in the nature of certiorari quashing the impugned order-dated 31.08.2024 passed by Respondent No.2 u/s 148A(d) of the Act and the notice-dated 31.08.2024 issued by him u/s 148 of the Act for AY 2018-19;
> b) a writ of prohibition or any other writ, order or direction in the nature of prohibition restraining the respondents from conducting the proceeding in pursuance to notice issued u/s 148 of the Act for AY 2018-19,"

2. It is the case of the petitioner (hereafter *Assessee*) that the assessing officer (AO) had no information which is suggestive of the fact that its income for the assessment year (AY) 2018-19, has escaped assessment.

3. In addition, it is contended that the impugned order dated 31.08.2024 (hereafter *the impugned order*) passed under Section 148A(d) of the Income Tax Act, 1961 (hereafter *the Act*) is liable to be set aside as the approval granted by the specified authority, which is mandatory, has been granted without application of mind.

4. Ms Bansal, the learned senior counsel appearing for the petitioner submits that on the receipt of notice dated 22.08.2024 issued under Section 148A(b) of the Act, the Assessee had filed a detailed reply along with the relevant material to establish that there was no unexplained transaction, as alleged in the notice issued under Section 148A(b) of the Act. She submits that the said reply in fact has not been considered and the AO has practically proceeded on the basis as set out in the said notice. She points out that the approval granted under Section 151 of the Act is also without application of mind as the same reflects that no reply has been received from the Assessee under Section 148A(b) of the Act. This is evident from the entry at query no.15.

5. The learned counsel appearing for the Revenue submits that it may be a typographical error. However, he fairly states that the matter may be remanded to the AO and the competent authority for considering afresh.

6. In view of the above, the impugned order is set aside and the matter is remanded to the AO to consider the Asseesee's response to the notice dated 22.08.2024 issued under Section 148A(b) of the Act and take an informed

decision in accordance with law.

7. The petition is allowed in the aforesaid terms. Pending application also stands disposed of.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

NOVEMBER 22, 2024

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Click here to check corrigendum, if any