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

\+ W.P.(C) 16406/2024 and CM APPLs. 69114-15/2024

UNNATI FORTUNE INDUSTRIES PRIVATE LIMITED

.....Petitioner

Through: Mr Ruchesh Sinha with Mr Rakesh Kumar, Advocates.

versus

CENTRAL BOARD OF DIRECT TAXES & ORS......Respondents

Through: Mr Aseem Chawla, SSC with Ms Prathistha Choudhary, Advocate.

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

**<u>O R D E R</u>**

% **27.11.2024**

1. The petitioner has filed the present petition *inter alia* impugning an intimation dated 24.12.2022 issued under Section 139(9) of the Income Tax Act, 1961 (hereafter *the Act*) in respect of the Assessment Year (AY) 2021-22 whereby it was communicated that the petitioner's return for the relevant AY is defective.

2. The petitioner submits that the said conclusion is erroneous and that the petitioner was not required to submit a tax audit report under Section 44AB of the Act as its turnover was less than ₹10 crores. He submits that the conclusion that the petitioner's turnover exceeds the said amount is erroneous.

3. Mr Aseem Chawla, the learned counsel appearing for the Revenue,

states that it would have been apposite for the petitioner to first exhaust his remedies by approaching the Jurisdictional Commissioner of Income Tax (hereafter *CIT*) on the administrative side before taking any judicial recourse. He submits that if a representation is made by the petitioner, the same would be considered by the learned CIT as he has the power to rectify or recall the impugned intimation.

4. In view of the above, the learned counsel appearing for the petitioner, states that he would have no objection if the present petiton is treated as a representation by the learned CIT and an appropriate order is passed thereon.

5. In view of the above, we direct the learned CIT to consider the present petition as the petitioner's representation and pass such order as it deems fit after affording the petitioner an opportunity of being heard. The learned CIT is also entitled to call for any further clarification or information as he may consider necessary for considering the petitioner's case.

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

**VIBHU BAKHRU, J**

**SWARANA KANTA SHARMA, J**

**NOVEMBER 27, 2024/** *tr*

*Click here to check corrigendum, if any*