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

\+ W.P.(C) 16462/2024 & CM APPL. 69458/2024, CM APPL. 69459/2024

M/S BCL SECURE PREMISES PRIVATE LIMITED THROUGH ITS DIRECTOR SHRI SANJAY SHARMA .....Petitioner

Through: Ms. Poonam Ahuja, Ms. Monika Ghai and Mr. Sharad Garg, Advocates

versus

DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 4 (2) DELHI AND ORS. .....Respondents

Through: Mr. Vipul Agrawal, SSC for R-1

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

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

% **28.11.2024**

1. Issue notice.

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

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

> "I. issue a writ in the nature of certiorari/ mandamus or any other appropriate writ, order or direction for quashing:
>
> (a) the notice dated 31.07.2024 issued under section 148A(b);
>
> (b) the order dated 31.08.2024 passed under section 148A(d), and the consequent initiation of income escaping proceedings vide notice dated 31.08.2024

issued under section 148 of the Income Tax Act, 1961;

in the case of the Petitioner for the Assessment Year 2018-19, and all proceedings/ actions consequent thereto;

II. grant ad-interim ex-parte stay on the assessment proceedings initiated under sections 147/148 of the Act vide the impugned notice dated 31.08.2024 issued under section 148 of the Act, and/or any other proceedings initiated thereunder for the Assessment Year 2018-19, during pendency of the present petition;

III. Pass such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

4. The petitioner is, essentially, aggrieved by the initiation of re-assessment proceedings pursuant to the notice dated 31.08.2024 (hereafter *the impugned notice dated 31.08.2024*) issued under Section 148 of the Income Tax Act, 1961 (hereafter *the Act*) in respect of the assessment year (AY) 2018-19. The said impugned notice was preceded by issuance of a notice dated 31.07.2024 (hereafter *the impugned notice dated 31.07.2024*) under Section 148A(b) of the Act and an order dated 31.08.2024 (hereafter *the impugned order*) passed pursuant to the said impugned notice under Section 148A(b) of the Act.

5. The assessing officer (hereafter *AO*) was in possession of the information that the petitioner was a shell company and had an unexplained credit amounting to ₹6.39 crores. Accordingly, the AO issued the impugned notice dated 31.07.2024 under Section 148A(b) of the Act, calling upon the petitioner to substantiate the nature of the said entries. The said impugned notice indicates that the AO had also called upon the petitioner to provide extensive information, including bank account statements, balance sheet, source of credit entries and the reason for declaring NIL total income in

return of income for the AY 2018-19, despite a huge credit of ₹6.39 crores in its bank account. The petitioner filed a response to the said impugned notice, explaining its nature of business and also provided other documents as stated above. The AO was satisfied that the petitioner was not a shell company and that the petitioner was carrying on genuine business operations.

6. Notwithstanding the same, the AO considered it a fit case to reopen the assessment on the ground that the credit amounting to ₹6.39 crores in the petitioner's bank account was not explained. The AO noted that no documentary evidence in the form of agreement between the parties resulting in such credit, ledger accounts of bills drawn for the services provided by the petitioner, had been produced.

7. It is the petitioner's case that the AO had not asked for the documents relating to a transaction and examining the same would amount to conducting an assessment proceeding which is not warranted.

8. After some arguments, the learned counsel appearing for the petitioner submits that if the petitioner is given another opportunity, the petitioner would produce all relevant documents to substantiate the credit entries, which according to the AO, is suggestive of the petitioner's income escaping assessment.

9. The learned counsel appearing for the Revenue submits that although the petitioner has not provided the said information in response to the impugned notice dated 31.07.2024 under Section 148A(b) of the Act, the petitioner may be allowed one more opportunity to do so.

10. In view of the above, the impugned order dated 31.08.2024 passed under Section 148A(d) of the Act as well as the impugned notice dated

31.08.2024 issued under Section 148 of the Act, which are in the present petition, are set aside.

11. The petitioner shall respond to the impugned notice dated 31.07.2024 issued under Section 148A(b) of the Act, confined to providing an explanation to the credit entries amounting to ₹ 6.39 crores alongwith all such documentary evidence as the petitioner considers relevant, within a period of two weeks from date.

12. The learned AO shall examine the same and take an informed decision, in accordance with law.

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

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

NOVEMBER 28, 2024

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Click here to check corrigendum, if any