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

\+ W.P.(C) 16602/2024 and CM APPL. 70185/2024

PICCADILY HOTELS PVT LTD .....Petitioner

Through: Mr Mayank Nagi with Ms Husnal Syali Nagi and Mr Tarun Singh, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 19 (1) DELHI .....Respondent

Through: Mr Puneet Rai, SSC with Mr Ashvini Kumar, Mr Rishabh Nangia and Mr Nikhil Jain, Advocates.

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

O R D E R

% **12.12.2024**

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

> "(a) a Writ of Certiorari under Article 226/227 of the Constitution of India quashing the impugned Order dated 05.04.2024 passed u/s 148A(d) and the consequential Notice issued u/s 148 of the Act by the Respondent;
> (b)A Writ of Prohibition of Writ, order or direction in the nature of Prohibition, or any appropriate Writ, order of direction under Article 226/227 of the Constitution restraining the Respondent from proceeding with or giving effect to the impugned Order dated 05.04.2024 issued u/s 148A(d) of the Act and the consequential Notice issued u/s 148, during the pendency of the present Writ Petition."

2. It is the petitioner's case that it had not received the notice dated 20.03.2024 issued under Section 148A(b) of the Income Tax Act, 1961 (hereafter *the Act*) as the same was sent to the e-mail ID of the erstwhile director of the petitioner's company. Consequently, the petitioner has been

unable to respond to the said notice.

3. Since no response was received from the petitioner, the Assessing Officer (AO) proceeded to pass an order dated 05.04.2024 under Section 148A(d) of the Act holding that it is a fit case for issuing a notice under Section 148 of the Act for the assessment year (AY) 2017-18. The AO also proceeded to issue such a notice under Section 148 of the Act.

4. Learned counsel appearing for the Revenue fairly states on instructions that the petitioner may be given one more opportunity to respond to the notice dated 20.03.2024 without going into the question whether the earlier notice was served on the petitioner or not.

5. In view of the above, the impugned order dated 05.04.2024 passed under Section 148A(d) of the Act as well as the notice dated 05.04.2024 issued under Section 148 of the Act are set aside. The petitioner may file its response to the notice under Section 148A(b) of the Act within a period of two weeks from date. The AO shall consider the same and pass an appropriate order within a period of four weeks thereafter. In the event, the AO considers that it is a fit case for issuing notice under Section 148 of the Act, it will obtain necessary approval from the concerned Chief Commissioner of Income Tax as was the requirement at the material time.

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

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

DECEMBER 12, 2024/*tr*

Click here to check corrigendum, if any