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

\+ W.P.(C) 17428/2024

BHARAT HOTELS LIMITED .....Petitioner

Through: Mr. Salil Kapoor, Advocate

versus

ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE 17, DELHI .....Respondent

Through: Appearance not given

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

O R D E R

% **18.12.2024**

CM APPL. 74147/2024

1. Exemption allowed subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 17428/2024 & CM APPL. 74146/2024 (Stay)

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

> "*a) Issue a writ of and/or order and or directions in the nature of certiorari or any other appropriate writ, order, or direction quashing impugned notice dated 12.08.2024 issued under Section 148A(b) of the Act and the impugned order dated 30.08.2024 passed under Section 148A(d) of the Act; and the impugned notice dated 30.08.2024 issued under Section 148 of the Act;*
>
> *b) Issue a writ of and/or order and/or direction in the nature of*

Prohibition commanding Respondents to forebear from giving effect to and/or taking any step whatsoever pursuant to and/or in furtherance of the said purported notice under Section 148 of the Act and/or in any proceedings initiated thereunder for the AY 2018-19, and grant stay on the reassessment proceedings;

c) Issue any other Writ, order, or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

d) To dispense with from filing certified copies of Annexures.

e) To allow the writ petition with cost in favor of the Petitioner and against the Respondents."

4. The Assessing Officer (AO) had issued a notice dated 12.08.2024 under Section 148A(b) of the Income Tax Act, 1961 (hereafter *the Act*) in respect of the Assessment Year (AY) 2018-19 setting out certain information, which according to the AO was suggestive of the petitioner's income for AY 2018-19 escaping assessment.

5. A plain reading of the notice indicates that the AO had received information that Assessee had made certain cash deposits in his account maintained with Jammu & Kashmir Bank (hereafter *J&K Bank*) which aggregated a sum of ₹5,61,26,241/-. In addition, the petitioner had also remitted certain funds overseas, amounting to ₹1,72,80,460/-.

6. The petitioner responded to the said notice and accepted that the cash deposits had been made in its bank account. The petitioner claimed that the same were duly recorded in its Books of Accounts and therefore, its income had been assessed to tax. The petitioner also pointed out its return for the relevant AY was subjected to scrutiny and full enquiry was undertaken. The petitioner also stated that the bulk of the deposits in J&K Bank were

pertaining to a hotel (Lalit Grand Palace) operated in Srinagar.

7. The petitioner also annexed certain documents by way of a sample and offered to provide any further document that may be required by the AO.

8. The AO accepted the Assessee's explanation regarding foreign remittances, nonetheless, he concluded it is a fit case for issuing a notice under Section 148 of the Act. The said conclusion was premised on the basis that the petitioner had not furnished full information along with all relevant documents and established that the cash deposits were duly accounted for in its Books of Accounts, which was subjected to scrutiny. It also observed that the documents provided for were incomplete as it only explained entries of a sum of ₹1,59,72,274/-.

9. We consider it apposite to observe that at the stage of passing an order under Section 148A(d) of the Act, the AO is required to confirm that the information available is indicative of the petitioner's income escaping assessment. Given the Assessee's explanation that the cash deposits as referred to were duly accounted for in its Books of Accounts, the AO was required to have reasons to believe otherwise.

10. The learned counsel appearing for the Revenue fairly states that the matter be remanded to the AO for considering the matter afresh as the Assessee has offerred to provide all further documents as may be required by the AO. We accept the said submission. We accordingly set aside the impugned order dated 30.08.2024 as well as a notice dated 30.08.2024 issued under Section 148 of the Act.

11. The petitioner shall furnish all documents as available to establish that the cash deposits as indicated in the notice dated 12.08.2024 were duly

accounted for in its Books of Accounts. The petitioner shall also furnish a copy of the Books of Accounts recording the relevant entries. If the AO is of the view that further documents are required in regard to explanation of cash deposits, as mentioned in the show-cause notice, the AO would be at liberty to call for the same as well.

12. Let the aforesaid documents be filed with the AO within a period of three weeks from date. The AO shall consider the same and pass an order in accordance with law.

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

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

DECEMBER 18, 2024

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Click here to check corrigendum, if any