$~80

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

% *Date of Decision : 23.12.2024*

\+ **W.P.(C) 17851/2024 & CM APPL. 75944-45/2024**

JINDAL SAW LTD.

.....Petitioner

Through: Ms.Shreya Jain and Mr Gaurav Tanwar, Advocates.

versus

DEPUTY/ASSISTANTCOMMISSIONER OF INCOME TAX

.....Respondent

Through: Mr Siddhartha Singh, SSC.

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

VIBHU BAKHRU, ACJ. (*ORAL*)

1. Issue notice. The learned counsel for the Revenue accepts notice.

2. The petitioner has filed the present petition, *inter alia,* impugning a notice dated 05.08.2024 (hereafter *the impugned notice*) issued under Section 148A(b) of the Income Tax Act, 1961 (hereafter *the Act*); an order dated 31.08.2024 (hereafter *the impugned order*) issued under Section 148A(d) of the Act; and a notice dated 31.08.2024 issued under Section 148 of the Act in respect of the assessment year (AY) 2018-19.

3. The assessing officer (AO) had issued the impugned notice under Section 148A(b) of the Act, *inter alia,* setting out the information, which

was suggestive that the petitioner's income has escaped assessment for AY 2018-19.

4. Paragraph no.6 of the impugned notice, whereby it was alleged that the petitioner had reflected an expenditure of ₹79,17,086/- that remained unexplained, is set out below: -

> "6. Since no submission/explanation has been offered by Shri Mukesh Pitti regarding any transaction undertaken by him, therefore, the amounts received by him as evident from 26AS and Aggregated GST Transactions report are bogus and the amounts paid by the assessee i.e. M/s Jindal Saw Ltd. (PAN:AABCS7280C) of Rs.79,17,086/-, which is in the form of expenditure, during the year under consideration be disallowed in its books of accounts accordingly. Therefore, **amount paid by the assessee of Rs.79,17,086/-, which is in the form of expenditure, has remained unexplained and has escaped assessment for AY 2018-19.**"

5. The petitioner responded to the said notice and stated that it had not made any payment of ₹79,17,086/-. The petitioner explained that it had, in fact, received the amount as income on which the tax has been collected at source. It is also the petitioner's case that the said income was duly reflected in its books of account and was subject matter of the assessment for AY 2018-19.

6. The AO passed the impugned order under Section 148A(d) of the Act holding that the amount received by the petitioner to the extent of ₹79,17,086/- was unexplained income. The AO had held that the petitioner had sold scrap to one Mukesh Pitti and received a sum of ₹79,17,086/-,

which was unexplained.

7. It is the petitioner's case that the impugned order is unsustainable as it is at variance with the allegations that were made in the impugned notice issued under Section 148A(b) of the Act.

8. The learned counsel appearing for the Revenue is unable to counter the aforesaid submission.

9. We find merit in the contention that the allegations made in the impugned order under Section 148A(d) of the Act is at variance with that as was set out in the impugned notice issued under Section 148A(b) of the Act.

10. The very purpose of issuing a notice is to enable the assessee to explain the information available with the AO and to establish that the said information does not indicate that the petitioner's income has escaped the assessment.

11. Since, the allegations made in the impugned notice issued under Section 148A(b) of the Act is at variance with the grounds raised in the impugned order passed under Section 148A(d) of the Act, the petitioner did not have any effective opportunity to further explain that the said information did not indicate that its income had escaped assessment.

12. We also find that the AO has not considered the petitioner's claim that its income that is alleged to have escaped assessment, is a part of the income as was disclosed in its books of account and was also subject matter of the assessment.

13. In view of the above, we consider it apposite to set aside the impugned notice as well as the impugned order. It is so directed.

14. We, however, clarify that this order will not preclude the AO from issuing any fresh notice under Section 148A(b) of the Act, if the AO is of the view that the information is suggestive of the petitioner's income escaping assessment, if otherwise, permissible in law.

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

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

DECEMBER 23, 2024

M

Click here to check corrigendum, if any