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

\+ W.P.(C) 582/2025

MANISH MITTAL AS LEGAL HEIR OF THE DECEASED DEVENDER MITTAL .....Petitioner

Through: Mr. Gautam Jain, Advocate with Mr. Shaantanu Jain, Mr. Deepanshu Jain and Mr. Manish Yadav, Advocates

versus

INCOME TAX OFFICER WARD 58(3), DELHI & ANR. .....Respondents

Through: Mr. Gaurav Gupta, Senior Standing Counsel with Mr. Shivendra Singh and Mr. Yojit Pareek, Junior Standing Counsels

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

O R D E R

% 17.01.2025

CM APPL. 2754/2025

1. Exemption allowed subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 582/2025 & CM APPL. 2753/2025

3. The petitioner has filed the present petition impugning a notice dated 30.03.2024 (hereafter the *impugned notice*) issued under Section 148 of the Income Tax Act, 1961 (hereafter *the Act)* in respect of Assessment Year (AY) 2016-17.

4. The petitioner is the son of the deceased assessee in whose name the impugned notice has been issued. Apart from raising various other

contentions on the merits of the decision to reopen the assessment, the petitioner submits that the said notice is liable to be set aside on the ground it has been issued in the name of a deceased person. There is no cavil that a notice under Section 148 of the Act is a foundational jurisdictional notice and therefore any infirmity that vitiates the said notice could vitiate the entire re-assessment proceedings.

5. The learned counsel appearing for the Revenue submits that the petitioner has already filed objections before the Assessing Officer (AO) raising the said issue. And, it is expected that the AO will decide the same within a period of ten days. He submits that the petitioner's grievance may not survive after the decision.

6. In view of the above, we dispose of the present petition by directing the AO to consider the petitioner's objection as noted above at the threshold stage and pass an order deciding the issue as to the validity of the impugned notice.

7. In the event, the petitioner is aggrieved by the decision of the AO, the petitioner is granted liberty to revive the present petition.

8. Pending applications also stand disposed of.

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

JANUARY 17, 2025
Ms/vc

Click here to check corrigendum, if any