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

\+ W.P.(C) 5913/2025 CM APPL. 26936/2025

SOJITZ CORPORATION .....Petitioner

Through: Mr. Prakash Shah, Sr. Adv., Mr. Suyog Bhave, Mr. Jasdeep Singh Dhillon and Mr. Rajpal Singh, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Abhishek Yadav, Adv. for R1
Mr. Sunil Agarwal, SSC, Mr. Viplav Acharya, Ms. Priya Sarkar, JSCs and Mr. Anurag Dwivedi and Mr. Utkarsh Tiwari, Advs for Income Tax.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% **04.12.2025**

1. This petition has been filed by the petitioner with the following prayers:-

> *"(a) this Hon'ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioners' case and after going into the validity and legality thereof, to quash and set aside (i) the impugned assessment Order dated*

25.03.2025 passed by the Respondent No.3 under Section 143(3) r.w.s. 144B of the Act (Annexure P-1), (ii) the impugned demand notice dated 25.03.2025 issued by the Respondent No.3 under Section 156 of the Act (Annexure P-2), and (iii) the impugned penalty notice dated 25.03.2025issued by the Respondent No.3 under Section 274 of the Act (Annexure P-3);

(b)this Hon'ble Court be pleased to issue a Writ of Prohibition or a writ in the nature of Prohibition or any other appropriate writ, order or direction under Article 226 of the Constitution of India prohibiting the Respondents by themselves, their subordinate, servants and agents from acting upon or taking any steps in furtherance and in pursuance of (i) the impugned assessment Order dated 25.03.2025 passed by the Respondent No.3 under Section 143(3) r.w.s. 144B of the Act (Annexure P-1), (ii) the impugned demand notice dated 25.03.2025 issued by the Respondent No.3 under Section 156 of the Act (Annexure P-2), and (iii) the impugned penalty notice dated 25.03.2025issued by the Respondent No.3 under Section 274 of the Act (Annexure p_3);

(c) that pending the hearing and final disposal of this petition, this Hon'ble Court be pleased to direct the Respondents by themselves, their officers, subordinates, servants and agents by an interim order and injunction to refrain from acting upon or taking any further steps or proceedings in pursuance of and/or in furtherance (i) the impugned assessment Order dated 25.03.2025 passed by the Respondent No.3 under Section 143(3) r.w.s. 144B of the Act (Annexure P-1), (ii) the impugned demand notice dated 25.03.2025 issued by the Respondent No.3 under Section 156 of the Act (Annexure P-2), and (iii) the impugned penalty notice dated 25.03.2025 issued by the Respondent No.3 under Section 274 of the Act (Annexure P-3);

(d) ad-interim reliefs in terms of prayer (c) above;

(e) for the cost of the Petitioner."

2. The submission of learned Senior Counsel, appearing for the petitioner, is that this petition has been filed challenging the assessment order dated 25.03.2025 under Section 143(3) read with Section 263 of the Income Tax Act (the Act) without issuing the draft assessment order in terms of the mandatory provision under Section 144C of the Act and as such the order being ex-facie illegal, is liable to be set aside.

3. In support of his submission, he has relied upon the judgment of this Court in ***PCIT v. Sumitomo Corporation India (P.)Ltd. (2024) 471 ITR 688/166 taxman.com 55 (Delhi) (HC).*** The Senior counsel also says that pursuant thereto the respondents have issued a demand notice dated 25.03.2025 and also penalty notice under Section 156 and 274 r/w Section 270A of the Act, which shall also be illegal as the basis for these notice being the assessment order, which is illegal.

4. Mr. Sunil Agarwal, learned Senior Standing Counsel appearing for the respondents/revenue has not placed before us anything contrary to what has been contended by the counsel for the petitioner.

5. If that be so, we set aside the assessment order dated 25.03.2025, passed by the respondent no.3 under Section 143 (3) read with Section 263 of the Act and also the notices dated 25.03.2025 issued under Section 156 and Section 274 r/w Section 270A of the Act.

6. Petition is disposed of.

7. At this stage, Mr. Agarwal submits that the respondents/revenue has filed SLP before the Supreme Court in ***PCIT v. Sumitomo Corporation India (P.) Ltd.,*** which is pending consideration. According to him in the

eventuality, the judgment is reversed, the respondent/revenue shall seek such remedy as available in law.

V. KAMESWAR RAO, J

VINOD KUMAR, J

DECEMBER 04, 2025
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