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

\+ **W.P.(C) 10907/2022**

VEDANTA NETHERLANDS INVESTMENTS B V .....Petitioner

Through: Mr. Ajay Vohra, Sr. Adv. with Mr. Himanshu Aggarwal, Adv.

versus

DEPUTY COMMISSIONER OF INCOME TAX & ANR. .....Respondents

Through: Mr. Gibran Naushad, SSC.

AND

\+ **W.P.(C) 12256/2025 & CM APPL. 49952/2025**

VEDANTA NETHERLANDS INVESTMENTS BV .....Petitioner

Through: Mr. Ajay Vohra, Sr. Adv. with Mr. Himanshu Aggarwal, Adv.

versus

DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE 3(1)(1) & ANR. .....Respondents

Through: Mr. Anant Mann, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

O R D E R

% 09.12.2025

1. This hearing has been done through hybrid mode.

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2. The challenge in this petition was for, *inter alia,* quashing of the impugned order dated 17th June, 2022 and the certificate dated 16th June, 2022 passed by the Income Tax Department. The further prayer is for issuance of the certificate with a lower withholding tax at the rate of 5% on the estimated dividend income from M/s. Vedanta Limited.

3. The Petitioner had sought the said certificate on the ground that it is a non-resident company incorporated in the Netherlands and is a tax resident of

the Netherlands holding a valid tax residency certificate. It claims to have no place of business or office in India, or any permanent establishment in India.

4. The brief background of the case is that in terms of the India-Netherlands Double Tax Avoidance Agreement (hereinafter "*DTAA*") the Petitioner had made investment into M/s. Vedanta Limited, an Indian company, through which it was estimated that the Petitioner could receive some dividend income to the tune of approximately Rs 343 crores. On the said basis the Petitioner had projected the computation of income tax to include the said dividend income. The documents etc., were all filed and queries which were also sought by the Income Tax Department were duly replied.

5. However, the impugned order dated 17th June, 2022 was passed rejecting the Petitioner's application for issuance of the certificate of 5% rate of withholding tax on the estimated dividend income. On the contrary, a certificate dated 16th June, 2022 directing M/s. Vedanta Limited to deduct tax at 20% was issued.

6. It was this order and certificate that was under challenge. The prayer in this writ petition is as under:

> *"(A) a writ in the nature of certiorari, mandamus or any other appropriate writ for quashing of the impugned order dated 17.06.2022 and certificate dated 16.06.2022 passed / issued by Respondent No.1 under section 197(1) of the Income Tax Act, 1961 ('the Act') and;*
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> *(B) a writ in the nature of certiorari, mandamus or any other appropriate writ or an order directing Respondent No.1 to issue certificate with the lower withholding rate of 5% in favour of the Petitioner for financial year 2022-23;"*

7. In this petition, on 31st October, 2022 notice was issued in this matter, and thereafter the matter had remained pending. In the meantime, the Income

Tax Department had made a reference to the Approving Panel under the General Anti-Avoidance Rules (hereinafter "*GAAR Panel*") which gave its directions on 31st March, 2025 after which assessments were framed on 8th May, 2025. After framing of the assessment, a penalty has also been imposed on the Petitioner.

8. The direction of the GAAR Panel and the subsequent assessment and penalty are the subject matter of ***W.P.(C)12256/2025***. In view of the subsequent events which have taken place, the present petition would be infructuous as the challenge has already been mounted to the main assessment order and the penalty in the second writ petition.

9. Accordingly, the present writ petition is disposed of as infructuous.

10. All arguments and contentions on merit are left open.

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11. Let a counter affidavit be filed by the Income Tax Department within a period of four weeks as requested.

12. Let rejoinder be filed within 4 weeks, thereafter.

13. Let the scanned record of ***W.P.(C)10907/2022*** be tagged with the present petition and shall be sent along with ***W.P.(C) 12256/2025*** on the next date.

14. Interim order granted on 25th August 2025 shall continue till the next date of hearing.

15. List on 5th May, 2026.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

DECEMBER 9, 2025/*Rahul/msh*