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

\+ W.P.(C) 9768/2024, CM APPL. 40095/2024 (stay)

\+ W.P.(C) 9769/2024, CM APPL. 40099/2024 (stay)

\+ W.P.(C) 754/2025, CM APPL. 3760/2025 (stay)

MG METALLOY PRIVATE LIMITED .....Petitioner

Through: Mr. Ved Jain, Mr. Nischay Kantoor and Ms. Soniya Dodeja, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE-2, & ORS. .....Respondents

Through: Mr. Ruchir Bhatia, SSC, Mr. Anant Mann, JSC and Ms. Lopamudra Mahapatra, Adv.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% **07.01.2026**

1. By way of the present writ petition(s) preferred under Section 226 of the Constitution of India, the petitioner has challenged the notices dated 26.04.2024 and 28.12.2023 issued under Section 148 of the Income Tax Act, 1961 *(hereinafter referred to as 'the Act of 1961')*, seeking to disallow the expenditure of the petitioner, even though there was no exempt income.

2. The basis for which the notices impugned were issued was, the amendment brought in Section 14A of the Act of 1961 by way of Amendment Act, 2022, whereby Explanation was inserted to Section 14A of the Act of 1961.

3. Learned counsel for the petitioner submitted that the explanatory memorandum issued while introducing the Amendment clearly shows that the amendment was prospective in nature and the same was to be applied from Assessment Year (AY) 2022-2023, whereas, the assessment year involved in those cases are AY 2017-18, 2018-19 and 2019-20. He relied upon the judgment of this Court in case of ***Principal Commissioner of Income Tax (Central)-2 v. M/s Era Infrastructure (India)*** in ITA 204/2022 decided on 20.07.2022.

4. Learned counsel for the respondents on the other hand submitted that a look at the Explanation clearly shows that the same was introduced with the view to clarify the doubt (if any), else the position was clear. He further argued that looking to the provision, the Explanation should apply retrospectively. In relation to the judgement in the case of **Era Infrastructure** (*supra*), learned counsel for the respondent submitted that the Department has filed a Special Leave Petition (SLP) in the Supreme Court, wherein notice has been issued.

5. Having heard learned counsel for the parties, we are of the view that the respondent no.1-Assessing Officer could not have issued notice to the petitioner relying upon the Explanation to Section 14A of the Act of 1961, which was inserted by the Finance Act, 2022.

6. It is a settled proposition of law that unless the provisions specifically makes it operational from a retrospective date, any

provision including explanation cannot be given retrospective effect. That apart, the judgment in the case of **Era Infrastructure** (*supra*) is categoric on this point.

7. These writ petitions are, therefore, allowed. Notices dated 26.04.2024 and 28.12.2023 impugned in these petitions so also the reasons corresponding thereto, under Section 148A(d) are hereby quashed and set aside.

DINESH MEHTA, J.

VINOD KUMAR, J.

JANUARY 7, 2026/*cd*