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

\+ W.P.(C) 5702/2025

BUILDWAY CONSULTANCY PRIVATE LIMITED .....Petitioner

Through: Mr Nitin Kanwar, Ms Parul Kanwar, Mr Rajiv Kumar, Mr Dushyant Nayak, Mr Shivam Jain and Mr Jitendra Kumar, Advocates.

versus

INCOME TAX OFFICER & ORS .....Respondents

Through: Mr Shlok Chandra, senior standing counsel with Ms Naincy Jain, Ms Madhavi Shukla and Mr Ujjwal Jain, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

O R D E R

% 01.05.2025

CM APPL. 26026/2025

1. Exemption is allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 5702/2025 and CM APPL. 26025/2025

3. Issue notice.

4. The learned counsel appearing for the Revenue accepts notice.

5. The petitioner has filed the present petition impugning an assessment order dated 16.03.2025 passed under Section 147 of the Income Tax Act, 1961 [**the Act**].

6. The petitioner also challenges the constitutional validity of Explanation II to Section 148 of the Act as being violative of Article 14 of

the Constitution of India. The petitioner has raised several issues including on the merits of the assessment order. In this view, we do not consider it apposite to entertain the challenge to the impugned order dated 16.03.2025 on other grounds leaving it open for the petitioner to avail of its statutory remedies.

7. Insofar as the petitioner's challenge to the constitutional validity of Explanation II to Section 148 of the Act is concerned, we issue notice confined to the said question.

8. We are informed that the batch of matters including W.P.(C) 13736/2024 captioned *Raghav Engineers through its Partner Rajesh Kumar Gupta v. Income Tax Officer Circle 61(1), New Delhi* involving a similar issue is now listed before this Court on 03.07.2025.

9. Accordingly, list on 03.07.2025.

10. It is clarified that the fate of the impugned order and the appellate proceedings that may be instituted by the petitioner is subject to the outcome of the petitioner's challenge to constitutional vires of Explanation II to Section 148 of the Act.

11. We reject the petitioner's prayer for stay of the impugned order and further proceedings as the statutory provisions are presumed to be valid unless the same are held otherwise.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 1, 2025
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<u>*Click here to check corrigendum, if any*</u>