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

\+ W.P.(C) 7219/2024 & CM APPL. 30094/2024 (Stay)

NAF INDIA HOLDINGS LTD ..... Petitioner

Through: Mr. Rajshekhar Rao, Sr. Adv. with Ms. Bani Dikshit, Mr. Saket Shukla, Mr. Vishesh Minocha, Mr. Ankit Namdeo and Mr. Udhav Khanna, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX ..... Respondent

Through: Mr. Aseem Chawla, SSC with Ms. Pratishtha Chaudhary and Mr. Naveen Rohila, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **20.05.2024**

CM APPL. 30095/2024 (Exemption)

Allowed, subject to all just exceptions.

Application is disposed of.

W.P.(C) 7219/2024 & CM APPL. 30094/2024 (Stay)

1. Notice. Since the respondents are duly represented by Mr. Chawla, let a reply be filed within a period of four weeks from today. The petitioner shall have two weeks thereafter to file a rejoinder affidavit.

2. Prima facie, we find ourselves unable to sustain the impugned action under Section 148 of the Income Tax Act, 1961, bearing in

mind the fact that the petitioner held a valid Tax Residency Certificate [‘**TRC**’] referable to the Indo-Mauritius Double Taxation Avoidance Agreement [‘**DTAA**’] as well as a Foreign Portfolio Investment [‘**FPI**’] registration granted by Securities and Exchange Board of India. We also take note of the contention of the petitioner that the income which had arisen and accrued would stand exempted in light of Article 13(4) of the said DTAA.

3. Prima facie, the respondents while passing the order under Section 148A(d) have failed to accord due consideration to the aforesaid aspects. Matter requires consideration.

4. Till the next date of listing, we restrain the respondent from taking further steps pursuant to the impugned notice dated 31 March 2024.

5. List again on 05.08.2024.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MAY 20, 2024/RW