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

\+ W.P.(C) 11988/2022

SMITHS DETECTION ASIA PACIFIC PTE LIMITED ..... Petitioner
Through: Mr. Vishal Kalra, Advocate with Mr. S.S. Tomar, Advocate.

versus

THE ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 3(1)(2) (INTERNATIONAL TAXATION), NEW DELHI & ANR. ..... Respondents
Through: Mr. Ruchir Bhatia, Advocate.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

<u>O R D E R</u>

% 08.09.2022

Present writ petition has been filed challenging the notice issued under Section 148A(b) of the Income Tax Act, 1961 (for short 'the Act') dated 27th March, 2022, order passed under Section 148A(d) of the Act dated 26th April, 2022 and consequential notice issued under Section 148 of the Act dated 26th April, 2022 by the respondent No.1 for the Assessment Year 2015-16.

Learned counsel for the petitioner states that the only allegation is that Form 26AS shows higher TDS credit than what has been claimed in the ITR. He submits that the same cannot lead to a reasonable conclusion that income for the subject year has escaped assessment. He emphasises that change in TDS credit is due to the accounting policy of the assessee as well as the fact that the head office of the petitioner had entered into separate transactions directly with the customers who have accidently deposited TDS using the petitioner's PAN.

He also submits that the reopening now initiated by the respondent is barred by limitation. He further submits that as the rectification proceedings are still pending, the reassessment proceedings could not have been initiated as there cannot be two proceedings for the same assessment year.

Issue notice.

Mr. Ruchir Bhatia, learned counsel accepts notice on behalf of the respondents. He prays for and is permitted to file a counter affidavit within four weeks. Rejoinder affidavit, if any, be filed before the next date of hearing.

List on 14th March, 2023.

Though, the Assessing Officer is permitted to pass the assessment order, yet it is directed that the same shall not be given effect to and shall be subject to further orders that may be passed by this Court.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 8, 2022

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