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

\+ W.P.(C) 7705/2024

J J FOODS PRIVATE LIMITED ..... Petitioner

Through: Mr. Ruchesh Sinha, Mr. Pankaj Aggarwal and Ms. Monalisa Maity, Advocates

versus

DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 13 (1) DELHI & ANR. ..... Respondents

Through: Mr. Anurag Ojha, Sr. SC with Mr. V.K. Saksena and Ms. Hemlata Rawat, SCs.

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

O R D E R

% 27.05.2024

CM APPL 32046/2024 (Exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 7705/2024 and CM APPL 32045/2024 (Stay)

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

2. Prima facie we find merit in the challenge which stands raised to the re-assessment action bearing in mind the following facts.

3. The notice under Section 148A(b) of the Income Tax Act, 1961 [“**Act**”] was premised on information obtained and contained in the

Suspicious Transaction Report ["**STR**"] pertaining to M/s Blue Ocean International. It was on the aforesaid basis that the notice came to be issued to the writ petitioner herein. While responding to the aforesaid notice, the petitioner had categorically stated that it had no transactions with M/s Blue Ocean International. The assessee also candidly disclosed certain transactions which it had undertaken with Shri Pawan Kumar, a proprietor of Shree Laxmi Enterprises.

4. The Assessing Officer has proceeded on the basis that Shree Laxmi Enterprises is a connected entity of M/s Blue Ocean International and since Shri Pawan Kumar was a non-filer, further inquiry would have to be undertaken.

5. In our considered opinion, the aforesaid reasoning which stands reflected in para 2.4 of the order under Section 148A(d) of the Act cannot possibly be read as sufficient to institute reassessment under Section 148 of the Act. Matter requires consideration.

6. We accordingly provide that while it shall be open for the respondent to proceed further with the impugned proceedings under Section 148 of the Act, any order passed adverse to the petitioner shall not be given effect to till the next date of listing.

7. Let the petition be called again on 12.09.2024.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MAY 27, 2024

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