$~115 & 116

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

\+ **W.P.(C) 6951/2025**

SH. NAKUL CHHAWCHHARIA, ERSTWHILE DESIGNATED PARTNER OF M/S. A N PROPBUILD LLP (SINCE STRUCK OFF) .....Petitioner

Through: Mr. Sachit Jolly, Sr. Advocate with Mr. Rohit Garg, Mr. Abhyodaya Shankar Bajpai, Mr. Aditya Rathore, Mr. Sohum Dua and Mr. Shantanu Nair, Advocates.

versus

THE INCOME TAX OFFICER, WARD-29(1) .....Respondent

Through: Mr. Shlok Chandra, SSC with Ms.Naincy Jain, Ms. Madhavi Shukla, Mr. Ujjwal Jain and Mr. Dhananjay, Advocates.

\+ **W.P.(C) 6953/2025**

SH. NAKUL CHHAWCHHARIA, ERSTWHILE DESIGNATED PARTNER OF M/S. A N PROPBUILD LLP (SINCE STRUCK OFF) .....Petitioner

Through: Mr. Sachit Jolly, Sr. Advocate with Mr. Rohit Garg, Mr. Abhyodaya Shankar Bajpai, Mr. Aditya Rathore, Mr. Sohum Dua and Mr. Shantanu Nair, Advocates.

versus

THE INCOME TAX OFFICER, WARD-29(1) .....Respondent

Through: Mr. Shlok Chandra, SSC with Ms.Naincy Jain, Ms. Madhavi Shukla, Mr. Ujjwal Jain and Mr. Dhananjay, Advocates.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

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

% 21.05.2025

1. This hearing has been done through hybrid mode.

2. The present petitions have been filed under Articles 226 and 227 of the Constitution of the Constitution of India seeking to set aside the following orders passed by the Respondent-The Income Tax Officer, Ward-29(1):

(i) order dated 28th March, 2025 bearing DIN & Order No. ITBA/AST/S/147/2024-25/1075211575(1) passed in relation to ***Assessment Year 2016-17***; and

(ii) order dated 28th March, 2025 bearing DIN & Order No. ITBA/AST/S/147/2024-25/1075212243(1) passed in relation to ***Assessment Year 2017-18*** (hereinafter *'impugned orders'*).

Vide the said orders, the Petitioner has been fastened with a liability of Rs. Rs. 2,15,87,372/- and Rs. 1,53,72,750/- respectively.

3. The submission of Mr. Sachit Jolly, ld. Senior Counsel, is that the demand has been raised against the non-existing entity whose income tax registration stands cancelled and the Limited Liability Partnership is no longer conducting any business. It is also submitted by Mr. Jolly that the partner of the said firm has also received a demand of the same amount against which he has already filed an appeal before the Commissioner Appeals in Bengaluru. Para 14 of the order records that the present order is on a "protective basis".

In **W.P.(C) 6951/2025** for the **Assessment Year 2016-17 [in item 115]**

"14. From the facts delineated above, it is conclusively held that the assessee has undoubtedly received payment in cash of Rs.3,00,00,000/- w.r.t the sale of the immovable property during

*the year under consideration and no satisfactory explanation thereof has been provided by the assessee, the same remains unexplained and is added to the total income of the assessee LLP on protective basis being unexplained income as per the provisions of Section 69A of the Act**, and brought to tax as per the provisions of section 115BBE of the Act on protective basis as the said amount has been assessed on substantive basis in the hand of Mr. Ajay Khanna, a partner of the LLP.** Accordingly, penalty proceedings u/s 271 (1)(c) of the Act are hereby initiated separately for concealment of income."*

In **W.P.(C) 6953/2025** for the **Assessment Year 2017-18 [in Item 116].**

*"14 . From the facts delineated above, it is conclusively held that the assessee has undoubtedly received payment in cash of Rs .1, 00 ,00 ,000/- w .r.t the sale of the immovable property during the year under consideration 19.04.2016 and no satisfactory explanation thereof has been provided by the assessee , the same remains unexpla ined and is added to the total income of the assessee LLP on being unexplained income as per the provisions of Section 69A of the Act**, and brought to tax as per the provisions of section 11 SBBE of the Act on protective basis as the said amount has been assessed on substantive basis in the hand of Mr. Ajay Khanna , a partner of the LLP .** Accordingly , penalty proceedings u/ s 27 1AAC of the Act are hereby initiated separately."*

4. Issue notice.

5. Mr. Shlok Chandra, ld. Sr. Standing Counsel accepts notice for Respondent.

6. On behalf of the Respondent -Income Tax Department, it is further submitted that the Department has already taken steps to revise the order.

7. Let the counter affidavit be filed within six weeks from today.

8. Rejoinder thereto, if any, be filed within four weeks thereafter.

9. List before Joint Registrar 05th August, 2025.

10. List before Court on 13th October, 2025.

PRATHIBA M. SINGH, J

RAJNEESH KUMAR GUPTA, J

MAY 21, 2025/*v/Ar*.