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

+ **W.P.(C) 8815/2024**

**SAGARIKA GHOSH - LEGAL HEIR OF LATE SH. DIPANKAR MOHAN GHOSH THROUGH HER SPA HOLDER UPENDRA NATH MARWAH ..... Petitioner**

**Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Mr. Tarun Chanana and Ms. Ananya Kapoor, Advocates.**

versus

**ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 1(3)(1), (INTERNATIONAL TAXATION), NEW DELHI & ANR. .... Respondents**

**Through: Mr. Ruchir Bhatia, Senior Standing Counsel with Mr. Anant Mann & Mr. Pratyaksh Gupta, Junior Standing Counsel & Mr. Vikram Chand, Advocate**

**CORAM:**

**HON'BLE MR. JUSTICE YASHWANT VARMA**

**HON'BLE MR. JUSTICE RAVINDER DUDEJA**

**ORDER**

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**01.07.2024**

**CM APPL. 35834/2024 (Exemption)**

Allowed, subject to all just exceptions.

Application stands disposed of.

**W.P.(C) 8815/2024**

1. Notice. Since the respondents are represented by Mr. Bhatia, let a reply be filed within a period of three weeks from today. The petitioner shall have a week therefrom to file a rejoinder affidavit.



2. Prima facie, we find ourselves unable to sustain the impugned order bearing in mind the undisputed fact that the amount of INR 5 crores which is stated to be excess amounts deposited under the head of TDS has not been held or found to be taxable. While the petitioner/assessee did not file a return referable to Section 139 (4) of the Income Tax Act, 1961 [‘Act’] for the Assessment Year [‘AY’] 2012-13, undisputedly, the exercise of assessment was undertaken in terms of Section 148 and pursuant to which a return was filed for the consideration of the respondents.

3. Presently, Mr. Bhatia has been unable to draw our attention to any statutory disqualification which may stand attracted and which would negate the right of the assessee to claim refund of excess TDS deposited. Matter requires consideration.

4. Let the writ petition be called again on 30.08.2024.

**YASHWANT VARMA, J.**

**RAVINDER DUDEJA, J.**

**JULY 01, 2024 /vp**