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

\+ W.P.(C) 9048/2024 & CM APPL. 37009/2024 (Stay)

BARCLAYS MAURITUS OVERSEAS HOLDING LIMITED .....Petitioner

Through: Mr. Percy Pardiwalla, Sr. Adv. Mr. Hiten Thakkar & Mr. Nikhil Ranjan, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE INTERNATIONAL TAX 1 1 2 & ANR. .....Respondents

Through: Mr. Aseem Chawla, SSC with Ms. Naincy Jain, JSC, Ms. Pratishtha Chaudhary & Mr. Naveen Rohila, Advocates.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **05.07.2024**

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

2. Prima facie, and on hearing Mr. Pardiwalla, learned senior counsel who appears in support of the writ petition, we find that the challenge which stands raised is similar to the one which is engaging our attention in WP(C) 7219/2024 - **NAF India Holdings Ltd vs Deputy Commissioner of Income Tax**.

3. We note that while according interim protection to the petitioner there, we had passed the following interim order:-

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

4. Consequently and for reasons recorded and assigned therein, we hereby provide that respondents shall stand restrained from taking further steps pursuant to the impugned notice dated 31 March 2024.

5. Let the writ petition be called again on 05.08.2024.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

JULY 5, 2024/_RM/SK_