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

\+ W.P.(C) 10674/2025 CM APPL. 44145/2025

\+ W.P.(C) 10685/2025 CM APPL. 44161/2025

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.....Petitioner

Through: Mr. Ajay Vohra, Sr. Adv. with Mr Rajeev Mishra and Mr. Nirmal Kumar Ambastha, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX & ANR.

.....Respondent

Through: Mr. Puneet Rai, SSC with Mr. Ashvini Kumar and Mr. Rishabh Nangia and Mr. Gibran, JSC, Advs.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% 24.07.2025

CM APPL. 44162/2025 (Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 10674/2025 CM APPL. 44145/2025
W.P.(C) 10685/2025 CM APPL. 44161/2025

1. The challenge in these petitions are two separate orders both dated 31.03.2025 disposing of objections filed by the petitioner pertaining to Assessment Years 2017-18 and 2016-17, respectively, issued by the respondent no. 1. This is the second round of litigation. The earlier one

being W.P.(C) 4550/2022 and W.P.(C) 4560/2022. Those writ petitions were disposed of by this Court vide order dated 27.11.2024, whereby this Court had in paragraphs 19 & 20 stated as under:

> *"19.We are inclined to accept the said contention. Since, the AO has not examined the question regarding the chargeability of tax and has rejected the petitioner's objection solely on the ground that certain entities had deducted the tax at source on the payments made to the petitioner, we consider it apposite to remand the matter for considering afresh.*
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> *20.In view of the above, the impugned order dated 08.12.2021 disposing of the objections raised by the petitioner is set aside. The matter is remanded to the AO to consider the petitioner's objection afresh in the light of the observations made in this order. "*

2. The submission of Mr. Ajay Vohra, learned Senior Counsel for the petitioner is that the conclusion drawn vide the impugned orders is totally untenable inasmuch as the petitioner neither has any place of business nor any reason to carry out its business in India. The petitioner does not have any personal property or equipment in India. The petitioner is in receipt of commission income, which is in term of the provisions of the Act and the DTAA are not chargeable to tax in India. Accordingly, the petitioner did not file any return for the Assessment Year 2016-17 and 2017-18.

3. Issue notice. Mr. Puneet Rai accepts notice for the respondents. We have been informed that re-assessment proceedings have been initiated. It is made clear that the re-assessment proceedings may continue but any order which is passed to the prejudice of the petitioner shall not be given effect to till the next date of hearing.

4. Counter affidavit be filed within four weeks. Rejoinder thereto be filed within two weeks, thereafter.

5. List on 23.09.2025.

V. KAMESWAR RAO, J

VINOD KUMAR, J

JULY 24, 2025

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