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

\+ **W.P.(C) 13970/2024**

SAHARA INDIA COMMERCIAL CORPORATION LTD .....Petitioner

Through: Mr Percy J Pardiwalla, Sr Advocate with Mr Saten Sethi, Mr Arta Trana Panda, Mr Sanjeeva Kumar Gupta, Advocates.

versus

DY. COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE 1, DELHI & ORS. .....Respondents

Through: Mr Ruchir Bhatia, SSC, Mr Anant Mann, JSC and Mr Abhishek Anand, Advocate.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

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

% 16.10.2024

<u>CM APPL. 58462/2024 (Exemption)</u>

1. Exemption is allowed, subject to all just exceptions.

2. The application stands disposed of.

<u>W.P.(C) 13970/2024 & CM APPL. 58461/2024(Stay)</u>

3. The petitioner has filed the present petition, *inter alia,* impugning the notice dated 31.08.2024 (hereafter *the impugned notice*) issued under Section 148 of the Income Tax Act, 1961 (hereafter *the Act*) in respect of the assessment year (AY) 2018-19.

4. The impugned notice was preceded by a notice dated 07.08.2024 issued under Section 148A(b) of the Act. The information as mentioned in

the said notice, which according to the assessing officer (hereafter *the AO*) suggested that the income of the assessee had escaped assessment during the relevant AY (AY 2018-19), essentially, is two fold. First, the petitioner had received a bill of ₹8,00,03,877/- from Tridev Infra Contractors Pvt Limited (hereafter *TICPL*) and the said bill is alleged to be a bogus one. It is alleged that in the form of said bogus bill, the petitioner has concealed the unaccounted cash/income. The second reason stated in the said notice is the unsecured loan of ₹10,00,000/- extended by the petitioner to one Database Software Technology Pvt Limited (hereafter *the DSTPL*), which according to the AO, was a bogus accommodation entry.

5. The assessee had responded to the said notice making a unequivocal statement that it had no dealings with TICPL. In so far as the alleged loan is concerned, the assessee explained that it had had subscribed Optional Fully Convertible Debentures for an amount of ₹10,00,00,000/-. The assessee also provided further documents in respect of said transaction.

6. Notwithstanding the explanation, the AO passed an order under Section 148A(d) of the Act holding that there was information to suggest that the sum of ₹8,00,03,877/- had escaped the assessment on account of a transaction with TICPL. In addition, the AO also held that there was information to the effect that the subscription to 5000 Optional Fully Convertible Debentures of ₹20,000/- each amounting to ₹10,00,00,000/- subscribed by the petitioner was a sham transaction. Therefore, was chargeable to tax as unexplained expenditure, in the assessment year 2017-18.

7. *Prima facie*, it appears that there is no tangible material on record to indicate that the petitioner had paid any amount to TICPL. The petitioner's

contention that it had no transaction with the said company does not appear to have been sufficiently dealt with. In so far as the payment of ₹10,00,00,000/- is concerned, *prima facie*, it is difficult to accept that the same is suggestive of unexplained expenditure considering that the assessee has not booked that amount as an expenditure at all. No deduction on that account was claimed by the assessee.

8. Issue notice.

9. The learned counsel for the respondents accepts notice and seeks time to take instructions and, if necessary, file the counter affidavit.

10. Let the counter-affidavit, if any, be filed within a period of four weeks from date. Rejoinder thereto, if any, be also filed within one week thereafter.

11. List on 14.01.2025.

12. In the meanwhile, the proceedings pursuant to the impugned notice shall remain stayed till the next date of hearing.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

OCTOBER 16, 2024

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Click here to check corrigendum, if any