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

\+ W.P.(C) 14590/2024 and CM APPL. 61224/2024

RUKAM CAPITAL TRUST .....Petitioner

Through: Mr. Sachit Jolly, Sr. Advocate with Mrs. Mansha Anand, Mr. Abhyudaya Shankar Bajpai, Mr. Aditya Rathore, Advocates.

versus

DEPUTY COMMISSIONER INCOME TAX CIRCLE 49 1 DELHI & ANR. .....Respondents

Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh, JSC; Mr. Yojit Pareek, JSC for Revenue.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

O R D E R

% **24.03.2025**

1. The principal controversy to be addressed is whether the Assessing Officer [**AO**] can examine whether the case of an assessee falls under Section 270A(9) of the Income Tax Act, 1961 [**the Act**] while examining an application under Section 270AA of the Act for seeking immunity from penalty notwithstanding that a, *prima facie,* observation of misreporting has been made by the AO in the assessment order.

2. According to the Revenue, if the assessment order, on the basis of which the penalty proceedings have been initiated, contain any observations to the effect that the proceedings are being initiated on account of misreporting, an application under Section 270AA of the Act for immunity from penalty is foreclosed. The said proposition is stoutly contested by the

learned Senior Standing Counsel appearing for the petitioner.

3. This court is informed that this issue is not specifically covered by any other decision of this court. However, according to the learned Senior Counsel for the petitioner, the facts contained in some of the cases are indicative of the court's view in respect of the aforesaid proposition.

4. The learned counsel for parties shall file their written submissions on the aforesaid question along with all the authorities relied upon by them within a period of three weeks from date.

5. List for final hearing on 08.09.2025.

6. The interim orders shall continue till the disposal of the present petition. Accordingly, CM APPL. 61224/2024 is disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

MARCH 24, 2025/tr

Click here to check corrigendum, if any