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

\+ **W.P.(C) 15014/2024**

SAHARA INDIA FINANCIAL CORPORATION LTD

.....Petitioner

Through: Mr Percy J Pardiwalla, Sr Advocate with Mr Satyen Sethi, Ms Arta Tarana Panda and Mr Sanjeeva Kumar Gupta, Advocates.

versus

DY COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE 1 & 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

O R D E R

% **24.10.2024**

CM APPL. 62977/2024(Exemption)

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

2. The application stands disposed of.

W.P.(C) 15014/2024 & CM APPL. 62976/2024 (Stay)

3. Issue notice. The learned counsel for the Revenue accepts notice.

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

5. The impugned notice was preceded by the notice dated 14.08.2024 issued under Section 148A(b) of the Act indicating that the Assessing Officer (hereafter *the AO*) has information that the petitioner's income for the relevant assessment year has escaped the assessment.

6. The AO had referred to an audit objection to the effect that one percent of the average investment during the year quantified at ₹9,73,49,550/-, is disallowable under Section 14A of the Act. Further, the assessee had not paid an amount of ₹49,92,852/- to clear the employees' contribution to the Provident Fund within the due date and therefore, the said amount is liable to be disallowed in terms of Section 36(1)(va) of the Act.

7. The assessee responded to the said notice unequivocally stating that it had not availed any exemption under Section 10 of the Act and therefore, the disallowance under Section 14A of the Act could be made. Second, it is stated that, in fact, the petitioner had made a deposit of the amounts due to be deposited with the Provident Fund (employee contribution) on or before the due date. And, the amounts that were not deposited before the due dates were surrendered to tax.

8. It is apparent that none of the two statements made by the petitioner were faulted or effectively controverted. Notwithstanding the same, the AO passed the order dated 31.08.2024 under Section 148A(d) of the Act holding that it was a fit case to reopen the assessment.

9. *Prima facie*, the said order is unsustainable for the reasons that are apparent from the above narration.

10. In view of the above, the reassessment proceedings pursuant to the impugned notice are stayed till the disposal of captioned petition.

11. The counter-affidavit, if any, be filed by the Revenue within two weeks from date. Rejoinder thereto, if any, be also filed before the next date of hearing.

12. List on 26.11.2024.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

OCTOBER 24, 2024
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<u>*Click here to check corrigendum, if any*</u>