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

+ ITA 175/2024

THE PR. COMMISSIONER OF INCOME

TAX -CENTRAL -1

..... Appellant

Through: Mr. Ruchir Bhatia, SSC.

versus

VIKRAM DHIRANI

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR

KAURAV

ORDER

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12.03.2024

1. Notice. Although the respondent is stated to have been placed on advance notice, none has appeared on its behalf when the matter was called. Consequently, let learned counsel appearing for the appellant take steps for service upon the said respondent through all permissible modes including via approved courier service.

2. Prima facie and on a consideration of the submissions addressed by Mr. Bhatia, learned counsel, we find that the appeal would merit further consideration in light of the following facts.

3. The Income Tax Appellate Tribunal ["ITAT"] has essentially annulled the penalty which had been imposed under Section 271AAA of the Income Tax Act, 1961 ["Act"] holding that the assessee was neither confronted with any question during the recordal of its statement nor called upon to explain the source of the undisclosed income.

4. It is in the aforesaid context, let Mr. Bhatia, learned counsel,



draws our attention to paragraph 13 and 14 of the judgment in **Principal Commissioner of Income Tax vs. Smt. Ritu Singhal** [(2018) 92 taxmann.com 224 (Delhi)]. Matter requires consideration.

5. We consequently admit the instant appeal on the following question of law:-

A. Whether on the facts and in the circumstances of the case, the ITAT is correct in deleting the penalty of Rs.50,00,000/- imposed by the AO under Section 271AAA of the Act despite the fact that the assessee has failed to substantiate the manner in which undisclosed income was derived?

6. List again on 10.05.2024.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MARCH 12, 2024/neha