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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 931/2024 & CM APPL. 3890/2024**
SENSITECH EMEA B.V. Petitioner

Through: Mr.Kamal Sawhney, Mr.Nikhil
Agarwal, Mr.Nishank
Vashishtha and Mr.Puru
Medhira, Advs.

versus

**ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE
INTERNATIONAL TAX - 3(1)(2), DELHI & ANR.**

..... Respondents

Through: Mr.Aseem Chawla, Sr.SC with
Ms.Pratishtha Choudhary,
Mr.Aditya Gupta and
Ms.Nivedita Advs for
Respondent/Revenue.
Mr.Vinish Phoghat, SPC
for R-2/UOI.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

**HON'BLE MR. JUSTICE PURUSHAINDR KUMAR
KAURAV**

ORDER

22.01.2024

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1. Since the respondents are duly represented by Mr. Chawla, let a reply be filed within two weeks from today. The petitioner shall have a week therefrom to file a rejoinder affidavit.
2. The present writ petition has been preferred against the order issued under Section 148A(d) of the Income Tax Act, 1961 ["Act"] and notice issued under Section 148 of the Act dated 27 April 2023. The petitioner has also assailed the constitutional validity of Explanation 1(i) to Section 148 of the Act.
3. Prima facie, we find that the question of validity need not be



gone into in the instant writ petition bearing in mind the following facts.

4. The assumption of jurisdiction under Section 148 of the Act is based on the subscription of shares in an Indian entity. According to Mr. Sawhney, the aforesaid issue stands duly settled by the decision of the Court in **Nestle SA v. Asst. Commissioner of Income Tax (International Taxation)** [2019 SCC OnLine Del 9630] as also in **M/s Angelantoni Test Technologies SRL Versus Assistant Commissioner of Income Tax, Circle Int Tax 1(1)(1) & Ors.** [2023 SCC OnLine Del 8486].

5. In view of the aforesaid, we find on a prima facie evaluation that there could not be said to exist any material to suggest that income had escaped taxation under the Act. The matter requires consideration.

6. Till the next date of listing, we stay further proceedings pursuant to the impugned notice dated 27 April 2023.

7. Let the writ petition be called again on 09.04.2024.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.
JANUARY 22, 2024/MJ