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

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Date of Decision : 25.09.2024+ **ITA 504/2024 & CM APPL. 56516/2024****THE COMMISSIONER OF INCOME TAX –
INTERNATIONAL TAXATION -2**

.....Appellant

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

versus

MAVENIR UK HOLDINGS

.....Respondent

Through: Mr Manuj Sabharwal, Mr Drona Negi, and Mr Devvrat Tiwari, Advocates.

CORAM:**HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****VIBHU BAKHRU, J. (ORAL)****CAV 481/2024**

1. The learned counsel for the respondent is present.
2. The caveat is discharged.

ITA 504/2024 & CM APPL. 56516/2024 (condonation)

3. Issue notice. The learned counsel for the respondent accepts notice.
4. The Revenue has filed the present appeal under Section 260A the Income Tax Act, 1961 (hereafter *the Act*) impugning an order dated 05.01.2024 passed by the Income Tax Appellate Tribunal (hereafter *the*



ITAT) in ITA No.185/Del/2023 in respect of the assessment year 2013-14.

5. The ITAT had allowed the assessee's appeal against an order dated 27.12.2022 passed by the Assessing Officer (hereafter *the AO*) under Section 147 read with Section 144 of the Act. The ITAT concluded that the said order was beyond the period prescribed under Section 144C of the Act and therefore, was liable to be set aside.

6. It is relevant to refer to Section 144C of the Act, which reads as under:-

“144C. Reference to dispute resolution panel.—

(1) The Assessing Officer shall, notwithstanding anything to the contrary contained in this Act, in the first instance, forward a draft of the proposed order of assessment (hereafter in this section referred to as the draft order) to the eligible assessee if he proposes to make, on or after the 1st day of October, 2009, any variation which is prejudicial to the interest of such assessee.

(2) On receipt of the draft order, the eligible assessee shall, within thirty days of the receipt by him of the draft order,—

(a) file his acceptance of the variations to the Assessing Officer; or

(b) file his objections, if any, to such variation with,—

(i) the Dispute Resolution Panel; and

(ii) the Assessing Officer.

(3) The Assessing Officer shall complete the assessment on the basis of the draft order, if—

(a) the assessee intimates to the Assessing Officer the acceptance of the variation; or

(b) no objections are received within the period specified in sub-section (2).

(4) The Assessing Officer shall, notwithstanding anything contained in section 153 or section 153B,



pass the assessment order under sub-section (3) within one month from the end of the month in which,—

(a) the acceptance is received; or
(b) the period of filing of objections under sub-section (2) expires.

(5) The Dispute Resolution Panel shall, in a case where any objection is received under sub-section (2), issue such directions, as it thinks fit, for the guidance of the Assessing Officer to enable him to complete the assessment.

(6) to (15) *** **”

7. In terms of sub-section (4) of Section 144C of the Act, the Assessing Officer is required to pass the assessment order under sub-section (3) of Section 144C of the Act within the period of one month from the end of the month in which the period for filing the objections under sub-section (2) of Section 144C of the Act expires.

8. In the present case, the draft assessment order was passed on 04.03.2022, thus, the assessee was required to file its objections before the learned Dispute Resolution Panel (hereafter *the DRP*) within the period of one month from the said date. The assessee had filed such objection on 06.04.2022, which was beyond the period of thirty days stipulated under sub-section (2) of Section 144C of the Act.

9. There is no cavil that the Assessing Officer was required to pass the assessment order within a period of one month from the end of the month in which the period for filing the objections under sub-section (2) of Section 144C of the Act expired. Thus, the order was required to be passed within the period of one month from 30.04.2022.



10. In the present case, the final assessment order was passed on 27.12.2022, which was beyond the stipulated period.

11. In view of the above, we find no infirmity with the decision of the ITAT in setting aside the final assessment order as being beyond the period of limitation as prescribed under the Act.

12. Mr Bhatia, the learned counsel appearing on behalf of the Revenue submitted that the assessee cannot be allowed to take advantage of its own wrong as it had filed the objections beyond the period of thirty days. This argument is insubstantial. There is no ambiguity in the language of sub-section (4) of Section 144C of the Act and notwithstanding that the assessee had not filed its objections within the period of thirty days, the AO was required to pass the final order, within the period as stipulated under sub-section (4) of Section 144C of the Act.

13. No question of law arises in the present appeal. The same is, accordingly, dismissed. Pending applications also stand disposed of.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

SEPTEMBER 25, 2024

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Click here to check corrigendum, if any