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

\+ W.P.(C) 12741/2019

ANURADHA SETHI ..... Petitioner

Through: Mr.P. Roy Chaudhuri, Advocate

versus

INCOME TAX OFFICER WARD 10(2) DELHI ..... Respondent

Through: Mr.Deepak Anand, Senior Standing Counsel with Mr.Vipul Agarwal, Advocate

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE REKHA PALLI

<u>O R D E R</u>

% 04.12.2019

<u>C.M. No.52080/2019 (exemption)</u>

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed of.

<u>W.P.(C) 12741/2019</u>

3. The limited grievance of the petitioner in the present writ petition is to the non supply of documents relied upon by the respondent while issuing notice under Section 148 of the Income Tax Act to the petitioner. The petitioner had sought supply of the said documents vide its communication dated 19.11.2019 by placing reliance on the decision of this Court in ***Sabh Infrastructure Ltd. vs. Asstt. of Commissioner of Income Tax*** **in W.P.(C) 1357/2016** decided on 25.09.2017. In response, the respondent has stated vide communication dated 24.11.2019 that they have incorporated in the

reasons the relevant portions of the documents.

4. The assessment which is sought to be reopened pertains to the Assessment Year 2012-13. The assessment has to be completed before 31st December, 2019. In our view, there is sufficient compliance by the respondent at this stage. We may also refer to our decision in ***Aditi Infrabuild and Services ltd vs. Assistant Commissioner of Income Tax Circle 1(2) & Anr*** **in W.P.(C) 10685/2019 decided on 7th November, 2019** wherein, while dealing with a similar argument we have held as follows:

> *"11. Having heard learned counsels, we are of the view that there is no merit in the present petition. So far as the petitioner's challenge to the reopening of the proceedings is concerned, this Court has already rejected the same by observing that it shall be open to the petitioner to raise all its pleas before the Assessing Officer. The Assessing Officer is now carrying on further investigation, for which purpose notices under Section 142(1) have been issued to the petitioner. It is for the petitioner to comply with the said investigation. The Assessing Officer has already given an assurance to the petitioner that the petitioner would be confronted with whatever material is sought to be relied upon during the course of re-assessment, and that the petitioner would be granted ample opportunity in the matter. We have no reason to assume, at this stage, that the Assessing Officer would not undertake the re-assessment proceedings in accordance with law. In any event, if there is any infraction of law by the Assessing Officer in the matter of carrying out the re-assessment proceedings, and the petitioner is aggrieved by the re-assessment order that the Assessing Officer may pass, it shall be open to the petitioner to raise all its pleas in appeal, firstly, before the CIT (Appeals), and thereafter, before the ITAT, if necessary.*
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> *12. In our view, an assessee cannot approach the High Court under Article 226 of the Constitution of India when the assessment/ re-assessment proceedings are in progress with a plea*

> *that the assessee is not being supplied with information/ documents by the Assessing Officer that he has asked for. If such petitions are routinely entertained, not only would it lead to opening of flood-gates, but also it would be extremely difficult for the Assessing Officer to complete the assessment proceedings within the period of limitation prescribed under the Act.*
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> *13. We, therefore, do not find any merit in this petition and dismiss the same leaving it to the petitioner to raise its grievance before the Appellate Forum in case the petitioner feels that there has been infraction of the procedure, or the principles of natural justice in the matter of framing of the re-assessment order."*

5. Learned counsel for the respondent assures that the petitioner would be confronted with all incriminating material that the Assessing Officer may wish to use against the petitioner during the course of reassessment and which forms on the basis of notice under Section 14cv 8 of the Act.

6. In light of the said statement and in view of our decision in ***Aditi Infrabuild (Supra),*** this petition stands disposed of.

VIPIN SANGHI, J

REKHA PALLI, J

DECEMBER 04, 2019

v