$~27

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

\+ W.P.(C) 1451/2020, CM APPL. 5022/2020

AMARJET KAUR ..... Petitioner

Through: Ms. Suruchi Agarwal, Adv. along with Ms. Arpana Majumdar, Adv.

versus

THE INCOME TAX OFFICER & ANR. ..... Respondents

Through: Mr. Sunil Agarwal, Sr. Standing counsel with Mr.Tushar Gupta and Mr. Akash Pratap Singh, Advs.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 07.02.2020

CM APPL. 5022/2020 (exemption)

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 1451/2020 & CM APPL. 5021/2020 (stay)

3. Issue notice. Learned counsel for the respondents accepts notice.

4. We have heard the learned counsel.

5. The order that we propose to be pass today, in our view, does not call for a reply.

6. The present case represents an exceptional situation which calls for an exceptional approach. The petitioner has assailed the assessment order dated

07.12.2019 passed by the Assessing Officer (AO), ward 68(1), New Delhi. The petitioner also assails demand notices dated 07.12.2019 and 20.01.2020 passed the same AO. The petitioner also assails the order dated 30.01.2020, rejecting the stay of the demand and directing the petitioner to deposit 20% of entire demand drawn within 7 days.

7. The case of the petitioner is that she and her husband, Mr. Jagtar Singh had made deposits with the Post Office. On the maturity of the said deposits, the amounts were transferred in their two bank accounts and were shown as cash entries, though, they were bank transfers. On the basis that the said amounts have been received as cash, which were not explained by the petitioner, the AO proceeded to make additions of Rs. 18,90,000/-. This was despite the fact that the petitioner had explained the position to the AO that the amounts had been received on the maturity of the deposits with the Post Office under the Monthly Income Scheme (MIS). The petitioner has even procured a letter dated 18.12.2019 which was issued by the postal department, which clearly states that the said deposits were internal transfers and not deposits made in cash. This communication was also marked to the Income Tax Officer, Ward No. 68 (1), New Delhi. However, it appears that the AO had already passed the assessment order on 07.12.2019 i.e. before the receipt of communication dated 18.12.2019.

8. In these circumstances, we are unable to appreciate as to how, firstly, the AO could have rejected the stay application.

9. In our view, the petitioner should not be subjected to harassment for pursuing her appeal. We therefore, set aside the assessment order dated

07.12.2019 and remand the matter to the AO for passing fresh assessment order after considering the relevant documents including the communication dated 18.12.2019 issued by the Office Of Sr. Superintendent of Post Offices, Delhi East Division, Delhi.

10. Consequently, the impugned demand notices are also set aside. The appeal before the CIT (A) has also become infructuous in view of the above circumstances.

11. Copy of this order be given *dasti* under the signature of Court Master.

VIPIN SANGHI, J

SANJEEV NARULA, J

FEBRUARY 07, 2020
Pallavi