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

% *Date of Decision: 13.07.2023*

+ **W.P.(C) 9198/2023 & CM Appl.34959/2023**

JAGRITI YADAV

..... Petitioner

Through: Mr T M Shivakumar, Adv.

versus

INCOME TAX OFFICER WARD 36(1) DELHI
& ANR.

..... Respondents

Through: Mr Vipul Agarwal, Sr Standing
Counsel, Sr Standing Counsel.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

1. Issue notice.
- 1.1 Mr Vipul Agarwal, learned senior standing counsel, accepts notice on behalf of the respondents/revenue.
2. In view of the directions that we intend to pass, Mr Agarwal says that no counter-affidavit is required to be filed and that he will rely on the record presently available with the court.
3. This writ petition concerns Assessment Year (AY) 2016-17.
4. The principal allegation against the petitioner is that he made cash deposits amounting to Rs.78,30,015/-, which were not accounted for.
5. It is the petitioner's case that the reassessment proceedings were



triggered against him based on the wrong premise that the petitioner is a “non-filer”. The petitioner asserts that the aforementioned cash deposit was accounted for in the return filed for AY 2016-17.

5.1 It is also the petitioner’s case that the Assessing Officer (AO) has referred to a PAN which had already been surrendered.

6. These and other defences, on merits, according to the counsel for the petitioner, were taken in the response dated 10.03.2023, which, according to the petitioner, has not been considered while passing the impugned order dated 23.03.2023 under Section 148A(d) of the Act.

6.1 The petitioner further claims that a response dated 22.03.2023 was also filed, however, the same was received by the AO after the impugned order had been passed.

7. It is clear that, at least, one of the two replies was available with the AO before the passing of the impugned order.

8. Given this position, according to us, the best way forward would be to set aside the order dated 23.03.2023 passed under Section 148A(d) of the Act, with liberty to the AO to pass a fresh order, after factoring in the response(s) filed by the petitioner. It is ordered accordingly.

9. The AO will issue a notice setting out the date and time for according hearing to the petitioner and/or her authorised representative.

10. Needless to add, the AO will pass a speaking order; a copy of which will be furnished to the petitioner.

11. Since we have not examined the merits of the case, the directions issued *via* the instant order will not impact the proceedings that the AO may carry on hereafter.



12. The appeal is disposed of in the aforesaid terms. The pending application shall stand closed.
13. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

JULY 13, 2023/pmc