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

\+ W.P.(C) 6351/2022 & C.M.Nos.19197-19199/2022

UDAY KUMAR ..... Petitioner

Through: Mr.Anand Shankar with Mr.Debashis Mukherjee, Advocates.

versus

ASSESSING OFFICER, NATIONAL FACELESS ASSESSMENT CENTRE, DELHI & ORS. ..... Respondents

Through: Mr.Ruchir Bhatia, standing counsel for the Revenue.

% Date of Decision: 21st April, 2022

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

JUDGMENT

MANMOHAN, J (Oral):

1. Present writ petition has been filed challenging the order dated 30th March, 2022 passed under Section 147 read with Section 144B of Income Tax Act, 1961 (hereinafter referred to as the 'Act'), notice of demand under Section 156 and also penalty proceeding initiated under Section 274 read with Section 271(1)(b) of the Act for the Assessment Year 2015-16 by Respondent no.1. Petitioner also challenges the report of respondent no.2 submitted before the NCLT, to the extent it implicates the Petitioner as the same has been prepared without granting an opportunity of hearing to the Petitioner.

2. Petitioner also seeks a direction to Respondent no.3 to provide true and correct information about the role and association of Petitioner in Respondent no.3 company to Respondent no.1 &2.

3. Learned counsel for the Petitioner states that the entire proceeding is based on the report of the Resolution Professional filed in NCLT, wherein it is wrongfully alleged that the Petitioner had received a sum of Rs.59,18,00,000/- from 636 investors in M/s Aurochem Buildprop Private Limited. He states that details of the said report were never provided to the Petitioner. He submits that the Petitioner had not been granted a fair hearing and the Respondents had proceeded with a pre determined mind.

4. Learned counsel for the Petitioner states that the Petitioner never worked in the company i.e. M/s Aurochem BuildProp Private Limited and therefore the alleged finding that Petitioner had received an amount of Rs. 59,18,00,000/- from the investors of the said company, which is a group company of M/s Earth Infrastructure Limited, is frivolous & fabricated.

5. Having perused the paper book, this Court finds that the Master Data Record of the company filed by the Petitioner itself shows that the Petitioner has been an authorized signatory of the company since 25th July, 2016 and continues to be so. The Petitioner in his reply dated 30th December, 2021 has taken a defence that he was appointed as a 'fake manager' on 25th July, 2016.

6. Keeping in view the aforesaid, this Court is of the view that the present petition involves disputed questions of fact as well as allegations of fraud and forgery – which cannot be decided in writ jurisdiction. In any event, the Petitioner has not been able to show to this Court that the

Petitioner had, at any stage, asked for a report filed by the Resolution Professional before the NCLT.

7. Consequently, the present writ petition along with pending applications are disposed of with liberty to the Petitioner to raise all his defences and submissions before the Appellate Authority as well as in appropriate forums/courts. The rights and contentions of all the parties are left open.

MANMOHAN, J

DINESH KUMAR SHARMA, J

APRIL 21, 2022
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