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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Decision delivered on: 21.12.2022*

\+ **W.P.(C) 17459/2022 & CM APPL. 55656-57/2022**

SH DINESH KUMAR ..... Petitioner
Through: Mr Bhuvnesh Satija, Adv.
versus
INCOME TAX OFFICER WARD-34 (1)
NEW DELHI & ANR. ..... Respondents
Through: Mr Sanjay Kumar, Sr. Standing Counsel with Ms Easha Kadian, Adv.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MS. JUSTICE TARA VITASTA GANJU
[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

CM No.55657/2022

1. Allowed, subject to just exceptions.

W.P.(C) 17459/2022 & CM No.55656/2022 ***[Application filed on behalf of the petitioner seeking interim relief]***

2. Issue notice.

2.1. Mr Sanjay Kumar accepts notice on behalf of the respondents/revenue.

3. In view of the order that we intend to pass, Mr Kumar says that a counter-affidavit need not be filed at this stage. Therefore, with the consent of the counsel for the parties, the writ petition is taken up for hearing and final disposal, at this stage itself.

4. This writ petition is directed against the order dated 19.07.2022 passed under Section 148A(d) of the Income Tax Act, 1961 [in short, "the Act"] and the consequent notice of even date, i.e., 19.07.2022, issued under

Section 148 of the Act, concerning Assessment Year (AY) 2013-14.

5. *Inter alia,* one of the grievances of the petitioner is that despite having asked for a personal hearing, the Assessing Officer (AO) did not grant a hearing and proceeded to pass the impugned order in the matter.

5.1 Besides this, it is also the case of the petitioner that the income chargeable to tax, which the respondents/revenue claim has escaped assessment, is below Rs.50,00,000/- and therefore, in this particular case, the prerequisites provided under Section 149 of the Act are not fulfilled.

6. Having regard to the fact that no personal hearing was granted to the petitioner, the aforementioned impugned order and notice are set aside.

7. The AO is given liberty to carry out a *de novo* exercise.

7.1. Before the AO embarks on that route, he/she shall grant a personal hearing to the petitioner and/or his authorized representative.

7.2. The AO will also furnish the underlying material/information available with him/her, if not already furnished, to the petitioner.

7.3. The AO will issue notice to the petitioner fixing the date and time of hearing.

8. The writ petition is disposed of in the aforesaid terms. Consequently, the pending application shall stand closed.

9. The parties will act, based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

DECEMBER 21, 2022 / aj

Signature Not Verified
Digitally Signed By:TARUN RANA
Signing Date:10.01.2023 18:21:13