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

% *Date of Decision: 25.01.2023*

+ **W.P.(C) 937/2023 & CM APPL. 3664/2023**

DELHI SPORTS AND ENTERTAINMENT PRIVATE
LIMITED

..... Petitioner

Through: Mr Robin Ratnakar David, Mr Dhiraj
Philip & Mr Samuel David,
Advocates.

versus

DEPUTY COMMISSIONER OF INCOME TAX
CIRCLE 7 1

..... Respondent

Through: Mr Sunil Agarwal, Sr. Standing
Counsel, on behalf of Mr Kunal
Sharma, Sr. Standing Counsel.

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):

W.P.(C) 937/2023 & CM APPL. 3664/2023 *[Application filed on behalf
of the petitioner seeking interim relief]*

1. Issue notice.

1.1 Mr Sunil Agarwal, learned senior standing counsel, accepts notice for
Mr Kunal Sharma, on behalf of respondent/revenue.

2. In view of the directions that we propose to pass, Mr Agarwal says
that, at this stage, counter-affidavit is not required to be filed. Therefore, the
writ petition is taken up for hearing and final disposal, at this stage itself.

3. This writ petition is directed against the order dated 30.07.2022

passed under Section 148A(d) of the Income Tax Act, 1961 [in short, ‘the Act’] and the consequent notice of even date, 30.07.2022, issued under Section 148 of the Act.

3.1 The impugned order and the notice concern Assessment Year (AY) 2017-18.

4. The principal allegation leveled against the petitioner/assessee is that it has received money by way of investment in share capital from multiple foreign entities in tranches. It is alleged that payments have been received from “tax haven countries like Dubai, Mauritius, Greece and Cayman Islands”.

5. A perusal of the impugned order shows that the input based on which reassessment proceedings have been triggered, is the Tax Evasion Petition (TEP).

6. A perusal of the record also shows that the petitioner/assessee had filed a reply, wherein it had taken the following position:

(i) The investment in share capital amounting to Rs.43,32,00,000/- had been received from an entity going by the name Wall Street Investments Limited. This amount had been received in an earlier Financial Year (FY), i.e., FY 2015-16 (AY 2016-17), *via* banking channels.

(ii) Wall Street Investment Limited was located in Mauritius.

(iii) The petitioner/assessee had not received any part of the amount alleged to have escaped taxation from any other entity. The amount aforementioned was received through one bank only.

7. A perusal of the record shows that the Assessing Officer (AO) has, principally, gone by the concerns raised in the TEP and neither applied his mind independently, nor furnished the relevant material supporting the

allegations leveled against the petitioner.

8. We may also note that both *vis-à-vis* the preceding AY i.e., AY 2016-17, as well as the AY in issue i.e., AY 2017-18, assessment orders under Section 143(3) were passed.

9. Given the aforesaid position, we are of the view that the AO would have to carry out a *de novo* exercise.

9.1 It is ordered accordingly.

10. The impugned assessment order and the notice are set aside.

10.1. The AO will accord personal hearing to the authorized representative of the petitioner.

10.2. Notice in this behalf would be issued, fixing the date and time for personal hearing.

10.3. Before proceeding further in the matter, the AO will furnish all relevant information and material to the petitioner. The petitioner will have liberty to file a further response, in case fresh material is furnished.

10.4. The AO will, thereafter, pass a speaking order, a copy of which will be furnished to the petitioner.

11. Needless to add, in the event that the order passed by the AO is adverse to the interest of the petitioner, it will have liberty to take recourse to an appropriate remedy, albeit as per law.

12. We may also make it clear that that the observations made hereinabove would not impact the proceedings which the AO will carry out hereafter.

13. The writ petition W.P.(C) 937/2023 is disposed of in the aforesaid terms. Resultantly, the pending application, i.e., CM APPL. 3664/2023 shall also stand disposed of.

14. Parties will act, based on the digitally signed copy of the judgment.

**RAJIV SHAKDHER
(JUDGE)**

**TARA VITASTA GANJU
(JUDGE)**

JANUARY 25, 2023 / ha

