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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of decision: 22.03.2023***

\+ **W.P.(C) 1524/2023 & CM Nos.5797/2023**
ADM AGRO INDUSTRIES INDIA PRIVATE LIMITED..Petitioner
Through: Ms Ananya Kapoor, Adv.

*versus*

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 1(1) DELHI .....Respondent
Through: Mr Sanjeev Menon, Jr. Standing Counsel for Mr Zoheb Hossain, 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) 1524/2023 & CM Nos.5797/2023** ***[Application filed on behalf of the petitioner seeking interim relief]***

1. This writ action concerns Assessment Year (AY) 2013-14.

2. This is, for the petitioner, the second round of the litigation in this Court. The petitioner had challenged the reassessment proceedings, initiated in the earlier round, by way of W.P (C)14713/2022. *Via* the order dated 10.11.2022, this Court had set aside the order and notice impugned in the said writ petition, and remitted the matter to the Assessing Officer (AO).

3. Pursuant to the order dated 10.11.2022 passed by this Court, a fresh notice was issued to the petitioner. This notice is dated 21.11.2022.

4. Concededly, the petitioner filed a reply dated 29.11.2022, whereupon

the impugned order dated 22.12.2022 was passed by the AO under Section 148A(d) of the Income Tax Act, 1961 [in short, "the Act"].

5. A consequential notice, which is also impugned in this writ petition was issued under Section 148 of the Act. This notice is dated 23.12.2022.

6. The principal allegation, in the first round, and in this round, against the petitioner is, that it has entered into bogus sale and purchase transactions with, one, Mr Rohit Bharat Nilakhe i.e., the proprietor of Adima Impex.

7. According to the respondent/revenue, the cumulative value of these transactions, [which is also the income chargeable to tax that has escaped assessment], amounts to Rs.80,19,097/-. This value includes bogus sales amounting to Rs.67,17,097/- and bogus purchases quantified at Rs. 13,02,000/-.

8. The petitioner's stand, both in the first round, and in this round, is that it has not entered into any transactions whatsoever, with the aforementioned person i.e., Mr Rohit Bharat Nilakhe.

9. The impugned order dated 22.12.2022 passed under Section 148A(d) of the Act, *inter alia*, adverts to the fact, that the petitioner, while denying that it had not entered into any transactions with Mr Rohit Bharat Nilakhe made no attempts to place relevant documents on record, which include bank statements for the period in issue.

10. Ms Ananya Kapoor, learned counsel who appears on behalf of the petitioner, emphasises the fact that the petitioner could not have proved the negative. However, on being queried, as to why the bank statements and party-wise details of debtors and creditors could not have been placed on record, Ms Kapoor says, that while details of debtors and creditors are already available, the bank statements could have been placed on record.

10.1 The record shows, that the petitioner was subjected to scrutiny assessment under Section 143(3) of the Act, and an order dated 30.12.2016 was passed in that behalf.

11. Furthermore, according to the respondent/revenue, during the period in issue, the petitioner had registered revenue amounting to Rs.969,69,73,791/-. The AO also notes, that the petitioner, in the given period, had made purchases amounting to Rs.894,42,38,980/-. Clearly, the extent of the transactions is vast.

12. In our view, the least that the petitioner should have done was to place on record, the bank statements and material it has in its possession, to at least satisfy the AO, that it had not entered into any transactions with Mr Rohit Bharat Nilakhe.

12.1 Given these circumstances, the writ petition is disposed of with the following directions:

(i) The petitioner will file the material it has in its possession, which includes its bank statements for the period in issue, to establish that it had not entered into any transactions with Mr Rohit Bharat Nilakhe. The documents will be filed within eight weeks.

(ii) The AO will examine the documents, if any, filed by the petitioner, and take them into account while carrying out the reassessment proceedings.

13. Needless to add, if upon the perusal of the record/material that petitioner files, the AO concludes that the petitioner has not entered into any transactions with Mr Rohit Bharat Nilakhe, he would be at liberty to close the proceedings.

14. We make it clear, that if the documents are not filed within the timeframe mentioned above, the AO will proceed further, without granting

any time to the petitioner. The period of eight weeks for filing documents will commence from today.

15. Parties will act based on the digitally signed copy of the order.

**RAJIV SHAKDHER, J**

**TARA VITASTA GANJU, J**

**MARCH 22, 2023/r**

*Click here to check corrigendum, if any*