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

% *Date of decision: 10.02.2023*

\+ **W.P.(C) 1754/2023 & CM APPL. 6709-6710/2023**

AC INFRASTRUCTURES PRIVATE LIMITED ..... Petitioner

Through: Ms Kavita Jha, Adv. with Mr Himanshu Aggarwal, Adv.

versus

INCOME TAX OFFICER & ANR. ..... Respondents

Through: Mr Sanjay Kumar, Sr. Standing Counsel with Ms Esha 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 APPL. 6710/2023

1. Allowed, subject to the petitioner filing legible copies of the annexures, at least three days before the next date of hearing.

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2. Issue notice.

2.1 Mr Sanjay Kumar, learned senior counsel, who appears on behalf of the respondent/revenue, accepts notice.

3. In view of the directions that we propose to pass, Mr Sanjay Kumar says that no counter-affidavit needs to be filed.

4. Thus, with the consent of counsel for the parties, the writ petition is

taken up for hearing and final disposal, at this stage itself.

5. *Via* this writ petition, the petitioner has assailed the notice dated 27.05.2022 issued under Section 148A(b) of the Income Tax Act, 1961 [in short, "Act"].

6. Besides this, challenge is also laid to the order dated 22.07.2022 passed under Section 148A(d) of the Act.

7. The impugned notice and order concern Assessment Year (AY) 2013-14.

8. The principal allegation against the petitioner is that it is a beneficiary of accommodation entries provided by Devesh Upadhyay *via* a company controlled by him.

9. In this regard, reference is made to an entity going by the name Neotex Vinimay Private Limited [in short, "NVPL"].

10. It is alleged that the petitioner has received accommodation entries worth Rs. 5.80 crores from NVPL, which amalgamated with Shrihari Tradex Private Limited.

11. Ms Kavita Jha, who appears on behalf of the petitioner, has adverted to the notice issued under Section 133(6) of the Act, whereby information concerning the transaction entered into by the petitioner with NVPL was sought. This notice is dated 20.03.2020 and is marked as Annexure-E.

11.1 In this context, our attention has been drawn by Ms Jha to reply dated 19.05.2020.

12. A perusal of the reply shows that the stand taken by the petitioner was that it had obtained an unsecured loan from NVPL, *albeit* through a banking channel i.e., RTGS.

13. The amount which the petitioner claims it obtained as loan was Rs.

6.35 crores. In support of this stand taken in the reply dated 19.05.2020, documents such as bank statement, the statutory audit report, balance sheet, profit and loss account and a statement setting forth computation of income (i.e., form 29B) were furnished.

14. We have queried Ms Jha as to whether any material was furnished concerning the allegation made qua the petitioner i.e., that it was a beneficiary of accommodation entries of worth Rs. 5.80 crores.

15. Ms Jha says that the petitioner was not furnished any information/material, apart from what is stated in the notice dated 27.05.2022 issued under Section 148A(b) and order dated 22.07.2022 passed under Section 148 A(d) of the Act.

16. Having regard to the aforesaid, in our view, the best way forward would be to set aside the order dated 22.07.2022 passed under Section 148A(d) of the Act and a consequent notice of even date i.e., 22.07.2022 issued under Section 148 of the Act, with liberty to the Assessing Officer (AO) to carry out the proceedings *de novo*.

16.1 It is ordered accordingly.

17. However, it is made clear that before the AO commences the proceedings afresh, he will furnish the requisite material and/or information in support of the allegation levelled against the petitioner, that is, it is a beneficiary of accommodation entries worth Rs. 5.80 crores.

18. The AO will also accord personal hearing to the authorised representative of the petitioner.

18.1 For this purpose, AO will issue a notice to the petitioner which would indicate the date and time of the hearing.

19. The AO will be at liberty to conduct proceedings *via* Video

Conferencing.

20. Furthermore, if fresh material is supplied, AO will accord leeway to the petitioner to file a supplementary reply.

21. The writ petition is disposed of in the aforesaid terms.

22. Consequently, all the pending applications shall stand closed.

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

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

FEBRUARY 10, 2023/SA

Click here to check corrigendum, if any