



\$~22

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Decision delivered on: 20.07.2023*+ **W.P.(C) 2485/2023 & CM APPL. 9499/2023**

EXPERION DEVELOPERS PVT LTD

..... Petitioner

Through: Ms Kavita Jha, Mr Anant Mann and
Mr Vaibhav Kulkarni, Adv.

versus

DY. COMMISSIONER OF INCOME TAX

..... Respondent

Through: Mr Puneet Rai, Sr Standing Counsel
with Mr Ashvini Kumar and Ms
Madhavi Shukla, Standing Counsels.**CORAM:****HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MR. JUSTICE GIRISH KATHPALIA****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J. (ORAL):**

1. In this writ petition, we are concerned with Financial Year (FY) 2015-16.
2. *Via* this writ petition, the petitioner has laid a challenge to the order dated 31.01.2023 passed under Section 201(1)/201(1A) of the Income Tax Act, 1961 [in short, "Act"].
 - 2.1 Besides this, a challenge is also laid to the demand notice dated 31.01.2023 issued under Section 156 of the Act.
3. It is not in dispute that the impugned order proceeded on the basis that the petitioner ought to have deducted tax at source, in consonance with the provisions of Section 194I of the Act.



3.1 This is evident from the following extract of the impugned order :

*“As narrated above that the cost of land is paid by HUDA. HUDA develops urban infrastructure on land by undertaking EDWs. HUDA transfers land to private builders who has to pay user fee for this developed urban infrastructure which is name[sic] as EDC under the license to set up commercial set ups. EDC would be called **Rent** ‘... any other agreement or arrangement for the use of (either separately or together) any, - (a)land; or ...’. Therefore, EDC ought to be subjected to TDS under section 194I of the Act @10%.”*

4. Mr Puneet Rai, learned senior standing counsel, who appears on behalf of the respondent/revenue, cannot but accept that the impugned order cannot be sustained, having regard to the judgment rendered by a coordinate bench of this court in ***DLF Homes Panchkula Pvt. Ltd. v. JCIT (OSD)***, 2023:DHC:2401-DB.

5. Having regard to the aforesaid, the impugned order and the demand notice are quashed.

6. The writ petition is disposed of, in the aforesaid terms.

7. Consequently, pending interlocutory application, i.e., CM No.9499/2023 shall stand closed.

8. Interim order dated 27.02.2023 shall stand vacated.

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

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

JULY 20, 2023/aj