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* IN THE HIGH COURT OF DELHI AT NEW DELHI
% Date of decision: 28.03.2023

+ W.P.(C) 3960/2023 & CM APPL. 15433-15434/2023
+ W.P.(C) 3963/2023 & CM APPL. 15441-15442/2023
+ W.P.(C) 3965/2023 & CM APPL. 15443-15444/2023
+ W.P.(C) 3966/2023 & CM APPL. 15445-15446/2023
+ W.P.(C) 3967/2023 & CM APPL. 15447-15448/2023
+ W.P.(C) 3968/2023 & CM APPL. 15449-15450/2023
+ W.P.(C) 3969/2023 & CM APPL. 15451-15452/2023
+ W.P.(C) 3970/2023 & CM APPL. 15453-15454/2023
+ W.P.(C) 3972/2023 & CM APPL. 15456-15457/2023
+ W.P.(C) 3973/2023 & CM APPL. 15462-15463/2023

KAMAL NATH

..... Petitioner

Through: Mr Vivek Tankha, Sr. Adv. with Mr
Varun Chopra, Mr Vipul Tiwari, Mr
Inder Dev Singh, Adv.

versus

DEPUTY COMMISSIONER OF INCOME TAX Respondents

Through: Mr Balbir Singh, ASG with Mr Zoheb
Hossain, Sr. Standing Counsel and Mr
Sanjeev Menon, 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)

1. Issue notice in the above-captioned matters.

1.1 Mr Zoheb Hossain accepts notice on behalf of the
respondent/revenue.

2. In view of the order that we intend to pass, Mr Hossain says that

counter-affidavit is not required to be filed in the matters. The above-captioned writ petitions are, thus, taken up for hearing and final disposal, at this stage itself.

3. These writ petitions concern Assessment Years (AYs) 2010-11 [W.P.(C) 3960/2023], 2011-12 [W.P.(C) 3966/2023], 2012-13 [W.P.(C) 3963/2023], 2014-15 [W.P.(C) 3970/2023], 2015-16 [W.P.(C) 3968/2023], 2016-17 [W.P.(C) 3965/2023], 2017-18 [W.P.(C) 3973/2023], 2018-19 [W.P.(C) 3972/2023], 2019-20 [W.P.(C) 3969/2023], 2020-21 [W.P.(C) 3967/2023].

4. Principally, in the above-captioned matters, challenge is laid to the notice dated 26.05.2022 issued by respondent no. 2 under Section 153C of the Income Tax Act, 1961 [in short, “the Act”].

5. The record shows that on 07.04.2019, a search and survey action was carried out against entities going by the name Moser Baer Group and Hindustan Power Group and some private individuals i.e., Mr Praveen Kakkar, Mr Rajender Miglani, Mr Lalit Chhallani and others.

6. According to the respondents/revenue, the reassessment proceedings against the petitioner were triggered, as a result of incriminating material found in the search and survey action carried out *vis-à-vis* the aforementioned entities and private individuals.

7. The record shows that on 23.02.2022, the respondents/revenue passed an order under Section 127 of the Act transferring the petitioner’s cases from ITO, Ward 32(1), Kolkata (Respondent No.2) to DCIT, Central Circle 19, Delhi (Respondent No.1).

7.1. The petitioner challenged the aforementioned order and, ultimately, lost the battle concerning the transfer of his cases. The Supreme Court *via*

order dated 13.03.2023, dismissed the Special Leave Petition (SLP) preferred by the petitioner.

8. We may also note, insofar as one of the impugned notices issued under Section 153C which concerned AY 2020-21, the same was withdrawn on 04.07.2022.

8.1. The record shows that, thereafter, a notice for the very same AY under Section 153C of the Act was issued by respondent no.1. This notice was issued on 11.02.2023. [See Annexure-P12, appended on page 249 of the case file].

9. What is not in dispute is that the petitioner's objections dated 24.03.2023 concerning AYs 2010-11 to 2012-13 and 2014-15 to 2020-21 are pending consideration with respondent no. 1.

10. It appears that the petitioner was furnished the satisfaction note concerning AY 2020-21 only on 26.03.2023.

10.1. According to Mr Vivek Tankha, learned senior counsel, who appears for the petitioner, the satisfaction note was furnished after the writ petitions were filed, and, therefore, it does not form a part of the record presently made available to us. We have, however, been shown a hard copy of the said satisfaction note.

11. Mr Tankha says that before any further steps are taken *qua* the petitioner for the period in issue, the objections dated 24.03.2023 will have to be disposed of, as per law.

11.1. Furthermore, Mr Tankha also submits that the petitioner wants to be given an opportunity for filing objections concerning the satisfaction note furnished to him on 26.03.2023, pertaining to AY 2020-21.

12. Mr Balbir Singh, learned ASG and Mr Zoheb Hossain, learned senior

standing counsel, who appear on behalf of the respondents/revenue, on instructions, say that the objections dated 24.03.2023 will be disposed of and a hearing will also be granted to the petitioner and/or his authorized representative.

12.1. Likewise, Mr Singh and Mr Hossain, once again, on instructions, say that opportunity would be granted to the petitioner to file objections *vis-à-vis* the satisfaction note dated 26.03.2023.

13. Thus, the above-captioned writ petitions are disposed of in terms of the following directions:

13.1. The concerned officer of the respondents/revenue will dispose of the objections dated 24.03.2023 submitted by the petitioner.

13.2. The concerned officer will also grant a hearing to the petitioner and/or to his authorized representative and shall issue a notice, in this behalf, which will set forth the date and time of the hearing.

13.3. Likewise, insofar as the satisfaction note concerning AY 2020-21 is concerned, the petitioner will file his objections within two (2) weeks commencing from today.

13.4. The concerned officer will, thereafter, fix a date and time for according hearing *vis-à-vis* the said satisfaction note.

13.5. Needless to state, with respect to the objections dated 24.03.2023 and the satisfaction note concerning AY 2020-21, the concerned officer will pass a speaking order; copies of which will be furnished to the petitioner.

14. We also make it clear that before the concerned officer proceeds further in the matter, he will furnish all the material, if not already furnished, to the petitioner.

15. It is made clear that that no precipitate action will be taken against the

petitioner till six (6) weeks from the date of the passing of the order have elapsed.

16. In case an order is passed which is adverse to the interest of the petitioner, the petitioner will have the liberty to take recourse to an appropriate remedy, as per law.

17. Mr Tankha, on instructions, says that no objection will be taken by the petitioner, with regard to the fact the limitation *qua* the reassessment proceedings initiated pursuant to the impugned Section 153C notices expired on 21/22.04.2023.

18. In case proceedings against the petitioner are not dropped, the respondents/revenue will have liberty to pass an assessment order within eight (8) weeks, after the period of six (6) weeks expires from the date of disposal of objections preferred by the petitioner.

19. The pending applications are, accordingly, closed.

20. Parties will act based on the digitally signed copies of the order.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

MARCH 28, 2023/SA

[Click here to check corrigendum, if any](#)