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

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Decision delivered on: 03.05.2023

+ **W.P.(C) 5766/2023**

VMVS TEXTILES PRIVATE LIMITED Petitioner
Through: Mr Prashant Shukla, Adv.

versus

INCOME TAX OFFICER WARD 26(1) & ANR. Respondents
Through: Mr Puneet Rai, Sr Standing Counsel
with Mr Ashvini Kumar and Ms
Madhavi Shukla, Jr 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. Issue notice.

1.1 Mr Puneet Rai, learned senior standing counsel, accepts notice on behalf of the respondents/revenue.

2. In view of the directions that we propose to pass, Mr Rai says that he does not wish to file a counter-affidavit in the matter, and that he will rely upon the record, as is presently available to the Court.

2.1 Therefore, with the consent of the learned counsel for the parties, the writ petition is taken up for hearing and final disposal at this stage itself.



3. This writ petition concerns Assessment Year (AY) 2013-2014.
4. The writ petition assails the order dated 30.07.2022 passed under Section 148A(d) of the Income Tax Act, 1961 [in short, “Act”].
 - 4.1 Besides this, challenge is also laid to the CBDT instruction No. 1/2022 dated 11.05.2022.
5. Furthermore, the petitioner seeks a direction *qua* the respondents/revenue, to the effect that they should be restrained from taking further action, in pursuance of the consequential notice issued under Section 148 of the Act.
6. The principal allegation made against the petitioner is, that it is a beneficiary of accommodation entries provided by two entities i.e., Gopalpriya Commercial Private Limited and Lookline Vincom Pvt. Ltd.
7. The cumulative value of these accommodation entries has been pegged at Rs. 50,00,221/-. According to the respondents/revenue, these were bogus unsecured loans, said to have been obtained by the petitioner from the aforementioned entities.
8. Based on these broad allegations, the charge levelled against the petitioner is, that income chargeable to tax amounting to Rs. 50,00,221/- had escaped assessment.
9. In the reply filed by petitioner, it was *inter alia* pointed out, that the AO had wrongly taken into account, a transaction said to have been entered into between the petitioner and Gopalpriya Commercial Private Limited, twice over.



10. To be noted, as per the AO, on the same date i.e., 23.03.2013, two bogus transactions were said to have been entered into between the petitioner and Gopalpriya Commercial Private Limited, with each transaction amounting to Rs.10,00,055/-

11. Mr Prashant Shukla, who appears on behalf of the petitioner, says that the bank statements, in support of this stand taken by the petitioner, were also placed before the AO.

12. It is Mr Shukla's contention, that although this aspect is noted in the impugned order dated 30.07.2022 passed by the AO under Section 148A(d) of the Act, the conclusion reached, that the escaped income is above Rs.50,00,000/- on the face of it, does not appear to be either reasonable or rational.

13. As noted above, in this context, Mr Shukla has placed emphasis on the bank statement, which was placed before the AO. It is Mr Shukla's contention, that there is no information or material furnished to the petitioner, which proves that two transactions amounting to Rs. 10,00,055/- were entered into between petitioner and Gopalpriya Commercial Private Limited.

14. Mr Rai says, that the best way forward would be to remit the matter to the AO, to enable him to have a fresh look at the matter.

15. Accordingly, the impugned order dated 30.07.2022 passed under Section 148A(d) of the Act is set aside.

16. Liberty is, however, given to the AO to re-examine the issue.



17. For this purpose, the AO will issue notice to the petitioner. The AO will also grant personal hearing to the authorised representative of the petitioner. The notice will indicate the date and time of the hearing.

18. We may add, that since the order dated 30.07.2022 passed under Section 148A(d) of the Act has been set aside, quite logically, all consequential proceedings will collapse.

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

20. Consequently, the pending application shall stand closed.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

MAY 3, 2023/ry

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

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