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

% **Date of decision: 01.06.2023**

+ **W.P.(C) 8109/2023**

RAJIB SAHA

..... Petitioner

Through: Mr Satyen Sethi, Advocate.

versus

INCOME TAX OFFICER, WARD 10(1) & ANR. Respondents

Through: Mr Shlok Chandra, Sr. Standing
Counsel with Ms Priya Sarkar, Jr.
Standing Counsel.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE GIRISH KATHPALIA

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J.: (ORAL)

CM APPL. 31209/2023

1. Allowed, subject to just exceptions.

W.P.(C) 8109/2023 and CM APPL. 31208/2023 *[Application filed on
behalf of the petitioner seeking interim relief]*

2. Issue notice.

2.1 Mr Shlok Chandra, learned senior standing counsel, who appears on
behalf of the respondents/revenue, accepts notice.

3. Given the directions that we propose to pass, Mr Chandra says, that he
does not wish to file a counter-affidavit in the matter, and he will argue the
matter based on the record presently available with the Court.



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

4. The petitioner, *via* this writ petition has assailed the notice dated 25.04.2023 issued under Section 179 of the Income Tax Act, 1961 [in short, “Act”]. This notice seeks to recover the demand which is outstanding against a company going by the name Gisil Designs Pvt. Ltd. (GDPL) concerning Assessment Year (AY) 2008-09. It is not disputed, that the petitioner is one of the Directors of GDPL.

5. Mr Satyen Sethi, learned counsel, who appears on behalf of the petitioner, says that against the assessment order *qua* which recovery is sought to be made *vis-à-vis* the petitioner, an appeal has been lodged before the appellate authority as far back as in 2013, which has not been adjudicated up until now.

5.1 Furthermore, Mr Sethi informs us, that a response has been filed with respect to the aforementioned show-cause notice.

5.2 Mr Sethi, however, says that, inadvertently, the reply, which is dated 11.05.2023, has not been placed on record. We have, however, been shown a hard copy of the reply dated 11.05.2023.

6. Given this position, at this stage, we are not inclined to interdict the proceedings. The concerned officer is, however, directed to adjudicate the show-cause notice dated 25.04.2023. In case the decision rendered by the concerned officer is adverse to the interests of the petitioner, the same shall not be given effect to, for a period of four weeks from the date of the said order being served on the petitioner.



7. Needless to add, the petitioner will have liberty to take recourse to an appropriate remedy against such a decision. Before the AO proceeds further, he will accord personal hearing to the petitioner and/or his authorized representative. For this purpose, a notice shall be issued, indicating the date and time of hearing.
8. The writ petition is disposed of in the aforesaid terms.
9. Consequently, pending application shall also stand closed.
10. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

JUNE 1, 2023/ tr