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

\+ **W.P.(C) 8866/2023** *Date of decision:05.07.2023*

ARUNA SINGH ..... Petitioner

Through: Mr Satyen Sethi with Mr A T Panda, Advs.

versus

NATIONAL FACELESS ASSESSMENT CENTRE, DELHI & ORS. ..... Respondents

Through: Mr Vipul Agarwal, Sr Standing Counsel with Mr Gibran Naushad, Standing Counsel.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MR. JUSTICE GIRISH KATHPALIA

RAJIV SHAKDHER, J.: (ORAL)

CM Appl.33506/2023

1. Allowed, subject to just exceptions.

W.P.(C) 8866/2023 & CM Appl.33505/2023 ***[Application filed on behalf of the petitioner seeking interim relief]***

2. This writ petition concerns Assessment Year (AY) 2013-14.

3. The petitioner, *via* the instant writ petition, *inter alia*, seeks to challenge the assessment order dated 30.05.2023, passed under Section 147, read with Section 144B of the Income Tax Act, 1961 [in short, "Act"].

3.1 Besides this, the petitioner also seeks to challenge the demand raised pursuant to the aforementioned assessment order passed *qua* the petitioner amounting to Rs.2,86,79,188/-. The demand notice is dated 30.05.2023.

3.2 It appears that the Assessing Officer (AO) has also issued a notice under Section 271(1)(c) of the Act. This notice is also dated 30.05.2023.

4. Mr Satyen Sethi, who appears on behalf of the petitioner/assessee, says that the reassessment proceedings against the petitioner were initiated on account of the petitioner not adverting to transactions *qua* an immovable property.

4.1 It appears that the petitioner's share in the said property was 20%, against which she received Rs.10 crores.

5. According to the petitioner, Rs.9,76,50,000/- were invested in a new residential property.

6. The petitioner was, evidently, advised that, since a substantial part of the sale consideration was invested in a new residential property, she would be entitled to deduction under Section 54 of the Act. It is for these reasons that the petitioner did not deem it fit to advert to these transactions i.e., concerning sale of property and investment in a new property in the original return filed under Section 139 of the Act.

6.1 The record also discloses, something that Mr Sethi does not dispute, that the sale transaction was disclosed in the return filed pursuant to the notice issued under Section 148 of the Act, whereby, the AO sought to reassess the petitioner. In the return, the petitioner disclosed the sale of the property and claimed deduction under Section 54 of the Act.

7. Mr Vipul Agarwal, learned senior standing counsel, who appears on behalf of the respondents/revenue, says that the petitioner is not entitled to make fresh claims in a return filed pursuant to the notice issued under Section 148 of the Act.

7.1 In support of his submission, Mr Agarwal relies upon the judgment of the Madras High Court, rendered in ***Satyamangalam Agricultural Producer's Co-Operative Marketing Society Ltd. vs. Income-Tax Officer***, 2013 SCC OnLine Mad 3863.

8. At this juncture, Mr Sethi says that the petitioner would like to withdraw the writ petition and take recourse to an appellate remedy.

9. The only apprehension that Mr Sethi has, is that given the petitioner's age and financial wherewithal, she may not be able to deposit monies against the demand created, in order to obtain a stay of the operation of the assessment order and the demand raised, while taking recourse to the appellate remedy.

10. Given the aforesaid circumstances, Mr Sethi is given leave to withdraw the petition, with liberty to take recourse to an appellate remedy.

11. In case the petitioner were to move the AO to seek of stay of the demand raised, the AO will consider the entire gamut of the facts and circumstances, and thereafter, render a decision as to whether or not the petitioner should be granted stay on the terms as provided in OMs dated 29.02.2016 and 31.07.2017, issued by the CBDT and the judgment of the Supreme Court dated 20.07.2018, rendered in Civil Appeal 6850/2018, titled ***PCIT v LG Electronics India Pvt Ltd.***

12. Furthermore, Mr Sethi says that the petitioner will file an appeal within the next seven (7) days.

12.1 If an appeal is filed before the Commissioner of Income Tax (Appeals) within one (1) week from today, the same will be entertained and decided on merits.

13. The writ petition is dismissed as withdrawn, with liberty as prayed for.

14. Consequently, the interlocutory application shall stand closed.

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

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

JULY 5, 2023/pmc