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

% *Decision delivered on: 20.07.2023*

+ **W.P.(C) 17195/2022 & CM APPL. 54650/2022**

DLF HOMES PANCHKULA PVT LTD ..... Petitioner

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

versus

ADDITIONAL COMMISSIONER OF INCOME TAX & ANR. ..... Respondents

Through: Mr Gaurav Gupta, Sr Standing Counsel with Mr Puneett Singhal and Mr Shivendra Singh, Standing Counsels.

+ **W.P.(C) 17201/2022 & CM APPL. 54658/2022**

DLF HOME DEVELOPERS LTD ..... Petitioner

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

versus

ADDITIONAL COMMISSIONER OF INCOME TAX & ANR. ..... Respondents

Through: Mr Aseem Chawla, Sr Standing Counsel with Ms Pratishtha Choudhary and Mr Aditya Gupta, Advs.

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

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

<u>RAJIV SHAKDHER, J.</u> (ORAL):

1. These writ petitions concern Financial Year (FY) 2013-14.

2. The petitioner has laid a challenge to the order dated 28.11.2022 passed under Section 271C of the Income Tax Act, 1961 [in short, "Act"]. Besides this, challenge is also laid to the demand notice of even date, i.e., 28.11.2022 issued under Section 156 of the Act.

3. It is not in dispute that insofar as the merits of the matter are concerned, i.e., whether the petitioner could be treated as an assessee-in-default under Section 201/201(1A) of the Act for its failure to deduct withholding tax qua External Development Charges (EDC) paid to the Haryana Urban Development Authority [in short, "HUDA"], the coordinate bench has ruled in favour of the petitioner.

3.1. In this behalf, our attention is drawn to the judgment rendered by a coordinate bench of this court in ***DLF Homes Panchkula Pvt. Ltd. v. JCIT (OSD)***, 2023:DHC:2401-DB.

4. Given this circumstance, according to us, the same result should follow *vis-a-vis* the penalty order and the demand notice assailed in the instant writ petition.

5. Accordingly, the aforementioned penalty order and demand notice are quashed.

6. The writ petitions are disposed of, in the aforesaid terms.

7. Consequently, pending interlocutory applications, i.e., CM No.54650/2022 [in W.P.(C)No.17195/2022] and CM No.54658/2022 [in W.P.(C)No.17201/2022] shall stand closed.

8. Interim order dated 16.12.2022 passed in the above-captioned writ petitions 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
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