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

\+ ITA 292/2023

RAM AVTAR BANSAL ..... Appellant

Through: Mr. K.C. Agarwal, Advocate

Versus

INCOME TAX OFFICER, WARD 61(2), NEW DELHI

..... Respondent

Through: Mr.Vipul Aggarwal, SSC with Mr. Gibran Naushad, Ms. Sakshi Shariwal, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **09.05.2024**

1. This appeal is directed against the order of the Income Tax Appellate Tribunal ["**ITAT**"] dated 19 January 2022 and posits the following questions for our consideration.

> "(i) Whether the authorities below (Ld. AO, Ld. CIT and Ld. ITAT) have not committed serious error and gross illegality in asking for show cause and blindly levying tax on the appellant without considering already available records with department and without examining, in the first stance, whether or not the appellant is partly or fully an owner or beneficiary in the bank accounts reported to have cash deposits?
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> (ii) Whether as per Article 265 of Constitution the appellant can be taxed based on consent without there being any liability as per law in as much as the appellant is not having any ownership or beneficial interest in the bank accounts in which there are reported cash deposits?

(iii) Whether addition to the income of appellant under Section 68 of Income Tax Act is not illegal and unconstitutional on the basis of cash deposits in the bank accounts not belonging to him in the facts and circumstances of the case and admittedly belonging to appellant's mother, appellant's wife, and appellant's son as per records of Income Tax department?

(iv) Whether in the facts and circumstances of the case the oral admission about ownership of bank accounts in question is false and illegal viewed in the light of totality of facts and circumstances and particularly in view of the fact that Ld. AO did not allow inspection of file despite application and deposit of fee, did not conduct any examination about ownership of or beneficial interest in the bank accounts, issued no notice/conducted no hearing/asked for no explanation/gave no opportunity to explain about deposit of Rs 13,38,500/- in the account of Mr. Siddharth Bansal, rejected revised return filed on 18.12.2015 prior to finalization of assessment on 30.03.2016, referred to or called for none of the documents mentioned in Annexure-A/5, Annexure-A/6, Annexure-A/7 Annexure- A/8 and Annexure-A/9?

(v) Whether in the facts and circumstances of the case as mentioned in above clause, it is not obvious that the filing of revised return and deposit of Rs. 87,310/-, admittedly claimed and recorded to have been done for o buy peace" is not with free consent and is instead under compulsion of circumstances and no tax can be levied based thereon?

(vi) Whether Ld. CIT and Ld. ITAT have lent undue and unwarranted support to Ld. AO by not taking cognizance of grossly illegal proceedings and manner of conducting as an assessing authority and have thereby not only caused harassment and injustice to the appellant but has also rendered positive disservice to the cause of revenue by unnecessary increasing the revenue litigation and clogging the system of adjudication and by indicating endorsement of intentional, deliberate and knowingly erring in favour of revenue ?

(vii) The related substantial question of law that arises is whether an admission of filing revised return and deposit of related tax to "buy peace" can be taken as an admission by free consent and whether the tax imposed on the appellate in the circumstances of the case is not illegal and unconstitutional as per Article 265 of the Constitution of India read with Articles 19 and 23.

(viii) Whether levy of tax on cash deposit amounting to Rs 13,38,500/- in the account of Mr. Siddharth Bansal (appellant's son) is not without affording any hearing, opportunity to explain being in violation of legal and constitutional principal of natural justice.

(ix) Whether Ld. ITO has not failed to exercise jurisdiction and powers vested in it under section 254 (2) of the Income Tax Act by refusing vide order dated 17.03.2023 to entertain M.A. No. 158 of 2022 and refused to rectify the impugned order dated 19.01.2022."

2. The principal argument which was sought to be addressed on this appeal was that various transactions which fell for scrutiny were not undertaken in the accounts of the assessee.

3. This argument essentially requires us to delve into facts and which do not even appear to have been either raised or urged before the ITAT. In any case, such a course would not be merited bearing in mind the limited scope of this appeal and which stands confined to the consideration of a substantial question of law.

4. In view of the aforesaid, we find no merit in the appeal. Consequently, the appeal fails and shall stand dismissed.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MAY 09, 2024

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