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

\+ W.P.(C) 6653/2024

AMIT GUPTA ..... Petitioner

Through: Mr. Abhimanyu Jhamba, Ms. Thonpinao Thangal & Mr. Shivam Prashar, Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 34(1) & ANR. ..... Respondents

Through: Mr. Indruj Singh Rai, SSC with Mr. Sanjeev Menon & Mr. Rahul Singh, JSCs.

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

ORDER

% **09.05.2024**

CM APPL. 27693/2024 (Ex.)

Allowed subject to all just exceptions.

Application stands disposed of.

WP(C) 6653/2024 & CM 27692/2024 (Stay)

1 The writ petitioner impugns the initiation of reassessment proceedings for Assessment Year [‘**AY**’] 2017-18 pursuant to the issuance of a notice under Section 148 of the Income Tax Act, 1961 [‘**AY**’] dated 30 March 2024.

2 As would be evident from a reading of the order passed by the

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Assessing Officer ['**AO**'] and referable to Section 148A(d) of the Act, the respondents sought to commence the assessment based upon certain information which was collated in terms of the Risk Management Strategy formulated by the Central Board of Direct Taxes ['**CBDT**']. The respondents essentially appear to have been persuaded to undertake reassessment in respect of various unaccounted cash receipts reflecting in the accounts of the petitioner and flowing from M/s VKC Nuts Pvt. Ltd. Those unaccounted cash receipts have been computed to be INR 1,13,94,208/-. Although the petitioner was afforded an opportunity to submit an explanation in respect of the aforenoted cash receipts, the respondents were unconvinced and have consequently disposed of the objections in terms of the order impugned before us.

3 Before us the writ petitioner has sought to question the assumption of jurisdiction under Section 148 and had required us to examine various facts which are presently yet to be examined and evaluated by the respondents. We bear in mind the undisputed position in law of Section 148 reassessments being liable to be interfered with under Article 226 of the Constitution on jurisdictional grounds and those which would impinge upon the very assumption of authority to reassess. A challenge under Article 226 to an action of reassessment cannot possibly be entertained on grounds as raised in the instant writ petition and which would necessarily entail the Court being compelled to examine issues of fact even though such an inquiry must in the first instance be undertaken by the AO.

4 We, consequently, find no merit in the instant writ petition. It shall consequently stand dismissed.

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5 This order, however, shall be without prejudice to the rights and contentions of the writ petitioner which shall be open to be addressed in the ongoing reassessment proceedings.

YASHWANT VARMA, J

PURUSHAINDRA KUMAR KAURAV, J

MAY 09, 2024/RW

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