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

\+ W.P.(C) 9698/2024

ARMANI AGRO PRIVATE LIMITED .....Petitioner

Through: Mr. Mudit Bansal, Advocate.

versus

NATIONAL FACELESS ASSESSMENT CENTRE DELHI .....Respondent

Through: Mr. Siddhartha Sinha, SSC with Ms. Dacchita Shahi & Ms. Anuja Pethia, JSCs, Mr. Nring Chamwibo Zeliang & Ms. Anu Priya Nisha Minz, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

<u>O R D E R</u>

% **13.09.2024**

1. We had while considering the writ petition on 18 July 2024 taken note of the contention of the petitioner who had asserted that prior to the framing of a final order of the assessment, the assessee had never been placed on notice of any proposed additions.

2. Mr. Sinha, learned counsel appearing for the respondents, however, draws our attention to the Show Cause Notice dated 04 March 2024 and in terms of which the petitioner was called upon to furnish confirmation pertaining to sundry debtors in each of whose names sums exceeding INR 10 lakhs were outstanding. The aforesaid notice in paragraph 3 thereafter called upon the petitioner to furnish an explanation in the following terms:-

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"3. The assesse was requested vide this office notice dated 04.10.2023 point no. 10 to furnish a list including the names, address, and PAN of the parties to whom payments of more than Rs. 5 lakhs are made for purchases, salary, job expenses and other expenses etc. alongwith the confirmation from these parties. However, the assessee has not submitted any detail as mentioned above. In view of above discussion the assessee is requested to explain as to why 10% of the expenses made towards purchases, salary, job expenses and other expenses etc should not be disallowed and added to the return income of the assessee."

3. When the assessment order ultimately came to be framed, the **Assessing Officer**[1] had observed as follows:-

"1. The assesse was requested vide this office notice dated 04.10.2023 point no. 10 to furnish a list including the names, address, and PAN of the parties to whom payments of more than Rs. 5 lakhs are made for purchases, salary, job expenses and other expenses etc. alongwith the confirmation from these parties. However, the assessee has not submitted any confirmation as mentioned above along with copy of ledger. In this regard information was called for from ten parties but the confirmation is received from HARYANA ORGANCIS, PAN- AAACG2634B only. Since, the assessee could not provide the copy of ledger of purchases along with confirmation from the parties, 10% of the expenses towards purchase is disallowed.

3.8 Conclusion drawn

a. On comparison of bank account statement of RD Traders and ledger of RD Traders in the books of Armani Agro, it is observed that the payment of Rs.12,62,000/- made by Armani Agro to RD Traders has not been entered in ledger of RD Traders in the books of Armani Agro and payment of Rs.7,80,000/- made by Armani Agro to RD Traders has not been reflected in the bank account statement submitted by the assessee. It is clear that the assessee has made extra payment of Rs.12,62,000/- to RD Traders and the source and nature of payment have not been explained by the assessee. The assessee has maintained separate trade payable account with RD Traders.No ledger confirmation from RD Traders is submitted by the assessee.

In view of above discussion, the nature and source of payment to RD Traders have not been explained by the assessee and remained unexplained amounting to Rs. 12,62,000/-. Therefore, amount of Rs. 12,62,000/- is treated as its income from undisclosed sources

[1] AO

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and added to the return income of the assessee u/s 69A r.w.s. 115BBE of the Income Tax Act, 1961 as income from undisclosed sources.

(Addition: Rs. 12,62,000/-)"

4. In view of the aforesaid, it is apparent that the submission that the petitioner was not put to notice of the proposed additions is factually incurred and misconceived.

5. We consequently find no ground to entertain a challenge under Article 226 of the Constitution to the final order of assessment.

6. Accordingly, while the writ petition is dismissed, all rights and contentions of the writ petitioner on merits are kept open to be addressed in appropriate statutory proceedings.

YASHWANT VARMA, J

RAVINDER DUDEJA, J

SEPTEMBER 13, 2024

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