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

\+ W.P.(C) 14089/2023, CM APPL. 55730/2023

TRACK INNOVATIONS (INDIA) PRIVATE LIMITED

..... Petitioner

Through: Mr. Ruchesh Sinha, Adv.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 25(1) DELHI & ANR. ..... Respondent

Through: Mr. Sunil Agarwal, SSC with Mr. Shivansh Pandya, Mr. Utkarsh Tiwari, Mr. Amaan, Advs. for Tax.

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

ORDER

% **14.02.2024**

1. This writ petition has been preferred seeking the following reliefs:-

> "a) That this Hon'ble High Court be pleased to quash the impugned notice dated 30.03.2023 issued U/s 148A(b) of the Income Tax Act, 1961 to the Petitioner for the A.Y. 2019-20;
>
> b) That this Hon'ble High Court be pleased to quash the impugned order dated 13.04.2023 passed U/s 148A(d) for the A.Y. 2019-20 wherein the objections against the reassessment proceedings have been disposed-off and the consequent notice dated 13.04.2023 issued U/s 148 of the Income Tax Act, 1961 against the Petitioner for the A.Y. 2019-20;
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> c) That this Hon'ble High Court be pleased to pass a writ of and/or order and/or direction in the nature of prohibition commanding Respondents to forebear from giving effect to and/or taking any step whatsoever pursuant to and/or in furtherance of the said purported notice under section 148 of the Income Tax Act 1961 and/or in any proceedings initiated thereunder for the A.Y 2019-20;

d) Such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. Upon hearing learned counsels for parties and on noticing the submissions that were addressed, we had on 23 January 2024 passed the following order:-

> "3. Having heard learned counsels for parties and on perusal of the record we find that the proceedings under Section 148 of the Income Tax Act, 1961 are based on the statement of one Mr. Joginder Pal Gupta who has alluded to various companies controlled by him and used for facilitating *hawala* entries.
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> 4. The respondents have proceeded on the basis of Case Related Information Details which appear at pdf page 131 of our paper book and which seems to suggest that RNSR Infracon Pvt. Ltd. ["**RNSR Infracon**"] is stated to have made over Rs. 11,35,160/- to the writ petitioner. It is alleged by the respondents that RNSR Infracon is an entity controlled by Mr. Joginder Pal Gupta.
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> 5. Mr. Sinha, learned counsel representing the petitioners, however contends that a perusal of the bank statements for the concerned financial year would indicate no such entry being reflected in the bank account of the writ petitioner.
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> 6. In view of the aforesaid, we grant Mr. Agarwal three weeks' further time to complete instructions.
>
> 7. Let the writ petition be called again on 14.02.2024."

3. Mr. Aggarwal, learned counsel appearing for the respondents draws our attention to paragraph 5 of that order and contends on instructions that the bank statements and the material which is sought to be relied upon by the petitioner in this writ petition was never placed before the concerned Assessing Officer ["**AO**"].

4. In view of the aforesaid, we find ourselves unable to interfere with the order impugned or to consider granting the writs as prayed for. This since it would be wholly incorrect to judge the validity of the impugned order based upon material which was never placed for the consideration of the AO.

5. We, however, leave it open to the writ petitioner to approach the concerned AO and place the relevant material for its consideration. All rights and contentions of parties are kept open.

6. Subject to the aforesaid observation, this writ petition shall stand disposed of.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

FEBRUARY 14, 2024/neha