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

\+ W.P.(C) 14201/2023 & CM APPL. 56233/2023 (Stay)

AKITA ENTERPRISES PRIVATE LIMITED

..... Petitioner

Through: Mr. Gautam Jain, Mr. Shaantanu Jain and Mr. Manish Yadav, Advs.

versus

INCOME TAX OFFICER, WARD-2(1), DELHI

..... Respondent

Through: Mr. Vipul Agarwal, Sr. Standing Counsel along with Mr. Gibran Naushad and Ms. Sakshi Shirwal, Jr. Standing Counsels.

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

O R D E R

% **19.02.2024**

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

> a) allow the present Writ Petition;
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> b) Issue a writ of *Certiorari* or writ of *mandamus* or appropriate writ, direction or order for quashing and setting aside the impugned notice u/s 148A(b) of the Act dated 09.03.2023 issued by Respondent in the Petitioner's case for A.Y. 2019-20;
>
> c) Issue a writ of *Certiorari* or writ of *mandamus* or appropriate writ, direction or order for quashing and setting aside the impugned order dated 29.03.2023 passed u/s 148A(d) of the Act issued by Respondent in the Petitioner's case for A.Y. 2019-20;
>
> d) Issue a writ of *Certiorari* or writ of *mandamus* or appropriate writ, direction or order for quashing and setting aside the impugned notice dated 29.03.2023 u/s 148 of the Act issued by Respondent in the Petitioner's case for A.Y. 2019-20;

e) Issue a writ of *Certiorari* or writ of *mandamus* or appropriate writ, direction or order for Quashing the proceedings initiated vide impugned notice dated 29.03.2023 u/s 148 of the Act;

f) Pass any other order that this Hon'ble Court may deem fit and proper in the interest of equity, justice and fairplay."

2. We had after hearing learned counsels for parties at some length on 08 January 2024 passed the following order:-

"xxx xxx xxx

3. One of the principal questions which would merit consideration would be whether the amount of Rs. 1,77,00,000/-, which is stated to have been received by the petitioner from M/s Sethi International had been duly disclosed in the returns which had been filed for Assessment Year ["**AY**"] 2019-20.

4. Prima facie, and on a consideration of the reply which was filed on 16 March 2023 in response to the notice under Section 148A(b) of the Income Tax Act, 1961 ["**Act**"], we note that there is no mention of that return having been produced before the Assessing Officer ["**AO**"] or the amount so received from M/s Sethi International having been offered to tax in the relevant AY.

5. In view of the aforesaid, we accord liberty to the petitioner to file a supplementary affidavit, if so chosen and advised, within a period of three weeks from today. The aforesaid would be without prejudice to the contention of Mr. Agrawal that since that material was never produced, the view as taken by the respondents would not merit interference.

6. Consequently we observe that the liberty as accorded is merely to attain clarity on facts.

7. Let the writ petition be called again on 19.02.2024."

3. Pursuant to the liberty so granted, learned counsel for the petitioner has placed additional material on the record. However, and on considering the same as well as the submissions which were addressed before us today, we note that undisputedly the Return for Assessment Year ['**AY**'] 2019-20 and on the basis whereof learned counsel argues that disclosures pertaining to M/s Sethi International had been duly made, do not appear to have been placed before the Assessing Officer [**'AO'**] in response to the notice issued under Section 148A(b) of the Income Tax Act, 1961 [**'Act'**].

4. Viewed in that light, we find ourselves unable to find any justifiable ground to interfere with the jurisdiction which was consequently assumed and the proceedings under Section 148 of the Act initiated.

5. In view of the aforesaid, while we refuse to issue the prerogative writs which are prayed for, we leave it open to the writ petitioner to produce the material placed on our record before the AO. In case such material as well as other documentation which is proposed to be relied upon is placed for the consideration of the AO, the same shall be taken into account while concluding the proceedings for reassessment.

6. The writ petition along with pending application stands disposed of on the above terms.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

FEBRUARY 19, 2024/ RW