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

\+ W.P.(C) 17191/2022

AKANKSHA PRADEEP MISHRA ..... Petitioner

Through: Mr. Vipin Upadhyay, Mr. Nikhil Gupta, Mr. Rochit Abhishek and Mr. Prince Nagpal, Advocates.

versus

JOINT COMMISSIONER OF INCOME TAX (OSD) & ANR. ..... Respondents

Through: Sh. Anurag Ojha, SSC with Ms. Hemlata Rawat and Mr. Virendra Kumar Saksena, JSC.

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\+ W.P.(C) 17198/2022

AKANKSHA PRADEEP MISHRA ..... Petitioner

Through: Mr. Vipin Upadhyay, Mr. Nikhil Gupta, Mr. Rochit Abhishek and Mr. Prince Nagpal, Advocates.

versus

JOINT COMMISSIONER OF INCOME TAX OSD & ANR. ..... Respondents

Through: Sh. Anurag Ojha, SSC with Ms. Hemlata Rawat and Mr. Virendra Kumar Saksena, JSC.

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\+ W.P.(C) 17213/2022

AKANKSHA PRADEEP MISHRA ..... Petitioner

Through: Mr. Vipin Upadhyay, Mr. Nikhil Gupta, Mr. Rochit Abhishek and Mr. Prince Nagpal, Advocates.

versus

JOINT COMMISSIONER OF INCOME
TAX OSD & ANR. ..... Respondents

Through: Sh. Anurag Ojha, SSC with Ms. Hemlata Rawat and Mr. Virendra Kumar Saksena, JSC.

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\+ W.P.(C) 17219/2022

AKANKSHA PRADEEP MISHRA ..... Petitioner

Through: Mr. Vipin Upadhyay, Mr. Nikhil Gupta, Mr. Rochit Abhishek and Mr. Prince Nagpal, Advocates.

versus

JOINT COMMISSIONER OF INCOME TAX
OSD & ANR. ..... Respondents

Through: Sh. Anurag Ojha, SSC with Ms. Hemlata Rawat and Mr. Virendra Kumar Saksena, JSC.

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\+ W.P.(C) 17222/2022

AKANKSHA PRADEEP MISHRA ..... Petitioner

Through: Mr. Vipin Upadhyay, Mr. Nikhil Gupta, Mr. Rochit Abhishek and Mr. Prince Nagpal, Advocates.

versus

JOINT COMMISSIONER OF INCOME
TAX OSD & ANR. ..... Respondents

Through: Sh. Anurag Ojha, SSC with Ms. Hemlata Rawat and Mr. Virendra Kumar Saksena, JSC.

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\+ W.P.(C) 17320/2022

AKANKSHA PRADEEP MISHRA ..... Petitioner

Through: Mr. Vipin Upadhyay, Mr. Nikhil Gupta, Mr. Rochit Abhishek and Mr. Prince Nagpal, Advocates.

versus

JOINT COMMISSIONER OF INCOME TAX (OSD) & ANR. ..... Respondents

Through: Sh. Anurag Ojha, SSC with Ms. Hemlata Rawat and Mr. Virendra Kumar Saksena, JSC.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

% **22.05.2024**

1. The writ petitions which pertain to Assessment Year ["**AY**"] 2017-18 [W.P.(C) 17191/2022], AY 2019-20 [W.P.(C) 17198/2022], AY 2016-17 [W.P.(C) 17213/2022], AY 2020-21 [W.P.(C) 17219/2022], AY 2015-16 [W.P.(C) 17222/2022] and AY 2018-19 [W.P.(C) 17320/2022] assail assessment orders framed by the respondents referable to Section 153A of the Income Tax Act, 1961 ["**Act**"].

2. The provisions of Section 153A were invoked consequent to a seizure of cash amounting to INR 20 Lakh from the petitioner while she was travelling from Delhi to Pune. The aforesaid seizure is stated to have taken place on 07 February 2021. A notice under Section 153A of the Act thereafter came to be issued on 20 March 2022.

3. A reading of the impugned order in W.P.(C) 17191/2022 would indicate that the petitioner failed to participate in the assessment

proceedings and consequently the Assessing Officer ["**AO**"] proceeded to undertake a best judgment assessment. As we read the order of assessment ultimately framed, it becomes apparent that the additions under Section 69A of the Act have been made based upon "AIR Information available with the Department".

4. On the basis of the aforesaid information, the AO has taken note of cash deposits made during the period 09 November to 30 December 2016. We note that similar additions have also been made in the assessment orders for the other AYs impugned before us.

5. Undisputedly the same would clearly not constitute material which could be said to be incriminating and one unearthed in the course of the search. It is in the aforesaid backdrop that learned counsel for the petitioner seeks to draw sustenance from the judgments rendered by the Court in **Commissioner of Income-tax vs. Kabul Chawla** [2015 SCC OnLine Del 11555] and **Saksham Commodities Limited vs. Income Tax Officer, Ward 22(1), Delhi & Anr** [2024 SCC OnLine Del 2551]

6. The legal position which flows from the aforesaid judgments rendered by this Court and the fact that the material which constitutes the foundation of the assessment orders would not be incriminating, was not disputed by learned counsel appearing for the respondents.

7. It becomes pertinent to note that insofar as AY 2021-2022 is concerned the assessment order drawn presently forms subject matter of challenge before the Commissioner of Income Tax (Appeals). Notwithstanding the above, in our considered opinion the 153A assessments for the years in question cannot possibly be sustained.

8. We accordingly allow the instant writ petitions and quash the impugned orders dated 31 March 2022.

YASHWANT VARMA, J

AMIT BANSAL, J

MAY 22, 2024/kk