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

\+ W.P.(C) 11367/2024 CM APPL. 47190/2024

SNB MINERALS LIMITED .....Petitioner

Through: Mr. Shantanu Jain, Mr. Manish Yadav and Mr. Gautam Jain, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 22(2), NEW DELHI-110002 .....Respondent

Through: Mr. Ruchir Bhatia, SSC with Mr. Anant Mann, JSC, Mr. Abhishek Anand, Advocate.

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

O R D E R

% **05.12.2024**

1. The petitioner has filed the present petition impugning a notice dated 26.02.2024 issued under Section 148A(b) of the Act in respect of the assessment year (AY) 2020-2021. The petitioner also impugns the order dated 18.03.2024 passed under Section 148A(d) of the Act as well as the notice dated 18.03.2024 issued under Section 148 of the Act. The petitioner's principal contention is that the Assessing Officer (hereafter *the AO*) did not have any jurisdiction to issue the impugned notice and the same ought to have been issued by a National Faceless Assessment Centre ("NFAC")/faceless AO. The said issue is covered against the petitioner by the decision of Co-ordinate Bench of this Court in ***T.K.S. Builders Pvt. Ltd vs. Income Tax Officer Ward 25(3) New Delhi (2024:DHC:8330-DB)***.

2. Learned counsel appearing for the petitioner further submits that the impugned order dated 18.03.2024 passed under Section 148A(d) of the Act is *ex facie* erroneous as it has been passed without any application of mind. He submits that the petitioner has duly responded to the impugned notice issued under Section 148A(b) of the Act. However, the AO had not considered the same.

3. A bare reading of the notice dated 26.02.2024 issued under Section 148A(b) of the Act indicates that the AO had information in his possession in respect of transactions with one Shagun Commercial Private Limited of a value of ₹3,50,00,000/- and ₹7,08,904/-. The said transactions were stated to be unsecured loans, however, the information available with the Department is to the effect that certain companies including Shagun Commercial Private Ltd. provided accommodation entries for Shri Banwari Lal Agarwal in the form of unsecured loans.

4. The petitioner responded to the said notice stating that it had received an unsecured loan from Shagun Commercial Private Ltd during the financial year 2019-20 and had also repaid the same. The petitioner also claims that it had paid the interest on the said loans and tax at source was deducted thereon. However, the AO was not persuaded to accept the same and found it a fit case for reopening the assessment, given the information that Shagun Commercial Private Ltd was one of the dummy companies providing accommodation entries. The petitioner had also not explained the relationship with the said company, which would establish the genuineness of the said transactions. According to the AO, the credit-worthiness and the genuineness of the said transactions were required to be examined in the context of the information available.

5. In the given facts and circumstances of this case, we are unable to accept that the impugned order passed under Section 148A(d) of the Act is required to be interfered with in these proceedings.

6. We consider it apposite to clarify that the examination at the stage of issuance of notice under Section 148 of the Act is limited to examining whether the information available indicates that the Assessee's income, has escaped assessment. However that does not preclude the Assessee from furnishing its explanation along with such relevant material as necessary to establish its declared income during the assessment / re-assessment proceedings. None of the observations made at the stage of issuance of the Notice under Section 148 of the Act by the AO, would preclude a full examination on the merits for determination of the income chargeable to tax during assessment/re-assessment proceedings.

7. It is clarified that, all contentions of the petitioner regarding the genuineness and credit-worthiness of the transactions, are reserved.

8. The petition is dismissed with aforesaid observations.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

DECEMBER 05, 2024/KG

Click here to check corrigendum, if any