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

\+ W.P.(C) 13660/2024 & CM No.57252/2024

VIPUL GOEL .....Petitioner

Through: Mr. Bankim Garg, Adv.

Versus

INCOME TAX OFFICER WARD 34 5 DELHI .....Respondent

Through: Mr. Debesh Panda, Mr. Vikramaditya Singh, Ms. Zehra Khan, Ms. Yashika Gupta & Mr. A. Shankar, Advs.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

O R D E R

% **14.10.2024**

1. The petitioner has filed the present petition impugning an order dated 30.03.2024 (hereafter *the impugned order*), *inter alia,* praying as under:

> "(a) Issue writ in the nature of *Certiorari* for quashing Order under Section 148A(d) of the Act dated 30.03.2024 (Annexure P-4) and Notice issued under Section 148 of the Act dated 30.03.2024 (Annexure P-5) by the Respondent being illegal and contrary to the provisions of the Income-tax Act, 1961; for assessment year 2020-21."

2. The petitioner has filed his return of income for the assessment year (hereafter *AY*) 2020-21 on 10.02.2021 disclosing his total income of ₹20,81,489/-.

3. The Assessing Officer (hereafter *the AO*) sought to reopen the assessment on the ground that he had information to suggest that the petitioner's income for the relevant AY (2020-21) had escaped assessment within the meaning of Section 147 of the Income Tax Act, 1961 (hereafter *the Act*) and had issued a notice dated 13.03.2024 under Section 148A(b) of the Act.

4. A plain reading of the aforesaid notice indicates that it was based on a

certain information, which was uploaded on the Insight Portal by other authorities including the GST authorities. A tabular statement indicating the information which the AO found, had suggested that the petitioner's income had escaped assessment as set out in the impugned notice, is reproduced below:

"Information Code	Information Description	Source	Amount Description	Amount (Rs.)
SFT	Sales and purchase transaction	Investigation	Other	48,62,435
GSTR1-R	Total sales reported under GSTR-1	GSTN	Total Turnover	14,22,75,751
GSTR-3B-R	Total sales reported under GSTR-3B	GSTN	Total Turnover	14,22,75,751
SFT-012(B)	Purchase by any person of immovable property	E SUB REGISTRAR VI C ROHINI	Transaction amount related to the person	96,00,000
TDS – 194IA(A)	TDS statement- payment of consideration for purchase of immovable property (Section 1941A)	VIPUL GOEL	Amount paid or credited	48,00,000
Total				30,38,13,937"

5. The aforesaid notice indicated that a search was conducted by the Investigation Wing in the case of M/s Johnson Watch Group and M/s Kapoor Watch Group on 31.10.2022 and analysis of the GST data of these companies indicated that there were entities from which accommodation entries were taken in the form of bogus purchase and sale.

6. The petitioner replied to the aforesaid notice by a letter dated 26.03.2024 setting out his explanation regarding the alleged transactions.

7. One of the allegations contained in the said notice related to the purchase of immovable property for the value of ₹96,00,000/-. The petitioner explained

that there were four owners of the said property who had purchased the same jointly and the petitioner's share in the said immovable property was only one-fourth. He submitted that he had made the payment of ₹24,00,000/- as consideration for purchase of one-fourth share in the said property by availing the loan from Kotak Mahindra Bank.

8. The AO had passed the impugned order under Section 148A(d) of the Act, *prima facie*, rejecting the petitioner's explanation. The impugned order appears to be a substantial reproduction of the said notice under Section 148A(b) of the Act. The impugned order also sets out the tabular statement setting out various amounts (except the amount of ₹14,22,75,751/- being the turnover) as were set out in the tabular statement in the notice dated 13.03.2024. One of the rows of the said statement, which referred to the turnover of ₹14,22,75,751/- was deleted. Consequently, the total value of the income alleged to have escaped assessment was reduced to ₹16,15,38,186/-.

9. It is important to note that the amount of ₹96,00,000/-, being the value of the immovable property as reported by the Sub-Registrar-VIC Rohini, is also included in the value of the income suspected to have escaped assessment. As noted above, the assessee had explained his share in the immovable property is only one-fourth and purchase of his share is funded by a home loan from Kotak Mahindra Bank Ltd. However, the impugned order does not indicate that the AO examined his contention.

10. It is also material to note that although the tabular statement as set out in the impugned order now reflects only four transactions with an aggregate value of ₹16,15,38,186/-, the impugned order continues to reflect that the petitioner's income to the extent of ₹30,38,13,937/-, has escaped assessment.

11. In view of the above, we consider it apposite to set aside the impugned order and remand the matter to the AO to consider the petitioner's response to the aforesaid notice afresh and to pass an appropriate order.

12. The petition is disposed of in the aforesaid terms. Pending applications are also disposed of.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

OCTOBER 14, 2024

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Click here to check corrigendum, if any