$~55

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

\+ W.P.(C) 15354/2024 & CM APPL. 64398/2024

RKG BUILDWELL PRIVATE LIMITED .....Petitioner

Through: Mr. V.K. Sabharwal and Mr. R.B. Gupta, Advocates

versus

PRINCIPAL COMMISSIONER INCOME TAX DELHI 7 & ANR. .....Respondents

Through: Mr. Sunil Agarwal, Sr. Standing Counsel with Mr. Shivansh B. Pandya and Mr. Viplav Acharya, Jr. Standing Counsels with Mr. Utkarsh Tiwari, Advocate for Income Tax Department.

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

O R D E R

% **04.11.2024**

CM APPL. 64399/2024 (exemption)

1. Exemption is allowed, subject to all just exceptions.

2. Application stands disposed of.

W.P.(C) 15354/2024

3. The assessee has filed the present petition under Article 226 of the Constitution of India impugning a notice dated 22.03.2024 issued under Section 148 of the Income Tax Act, 1961 (hereafter *the Act*).

4. The learned counsel for the petitioner/assessee submits that the impugned notice is required to be set aside on essentially three grounds. First,

he submits that the Principal Commissioner of Income Tax had granted approval of the said notice on the very same day of the issuance of notice. He submits that this is indicative of the fact that such approval was granted mechanically and without application of mind. Second, he submits that the impugned notice is premised on the basis that certain information was available with the Assessing Officer (hereafter *the AO*) pursuant to a search conducted under Section 132 of the Act in a group of entities described as Galaxy Group. He submits that the said group comprised of various entities and, therefore, it is necessary for the AO to have shared the information on which the impugned notice was predicated. The petitioner/assessee had made repeated requests to the AO for furnishing the said information but the same has not been provided yet. Third, he submits that the AO does not have any jurisdiction to issue the notice in view of Section 151A of the Act.

5. None of the aforesaid contentions are persuasive. The fact that the impugned notice was issued on the same day does not establish that the approval was granted without application of mind.

6. Insofar as the information sought by the petitioner is concerned, the petitioner is required to file his return of income pursuant to the impugned notice, and the AO is required to furnish him the information thereafter.

7. Admittedly, the petitioner has not filed his return of income as yet.

8. The question whether the Jurisdictional Assessing Officer (JAO) lacked the jurisdiction to issue a notice under Section 148 of the Act in view of notification dated 29.03.2022 read with Section 151A of the Act, is covered against the petitioner/assessee by the decision of the Coordinate Bench of this Court in ***TKS Builders Pvt. Ltd. v. Income Tax Officer Ward 25(3) New Delhi [2024] 167 taxman.com 759 (Delhi)***.

9. In view of the above, the petition is unmeritted. Accordingly, the present petition along with pending application is dismissed.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

NOVEMBER 4, 2024

zp

Click here to check corrigendum, if any