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

\+ W.P.(C) 15355/2024 & CM APPL. 64401/2024

RAJRANI GARG .....Petitioner

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

versus

CHIEF COMMISSIONER INCOME TAX 3, DELHI & 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. 64402/2024 (exemption)

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

2. Application stands disposed of.

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3. Issue notice. The learned counsel appearing on behalf of respondents accepts notice.

4. The petitioner has filed the present petition impugning an order dated 28.08.2024 (hereafter *the impugned order*) passed under Section 148A(d) of the Income Tax Act, 1961 (hereafter *the Act*) in respect of assessment year (AY) 2018-19. The petitioner also impugns a notice dated 28.08.2024 issued under Section 148 of the Act pursuant to the impugned order.

5. It is the petitioner's case that she did not have sufficient opportunity to respond to the notice dated 14.08.2024, which was issued under Section 148A(b) of the Act. The petitioner had not filed her return of income tax for the AY in question (AY 2018-19). She claims that she is not required to file any return as her entire income comprises of income from interest on which tax had been deducted at source.

6. The Assessing Officer (hereafter *the AO*) had information from the Sub-Registrar-VI-A, Sub Div–Model Town (hereafter *the Sub-Registrar*) that the petitioner had purchased an immovable property bearing No. KU-162, Pitampura, Delhi at a value of ₹2,70,00,000/-. According to the AO, the said information was suggestive of the petitioner's income, for the relevant AY, escaping assessment. Accordingly, the AO had issued the notice dated 14.08.2024 enclosing therewith the information regarding purchase of the aforesaid immovable property as well as the TDS statement from Vijaya Bank, which indicated that an amount of ₹98,040/- had been credited in the petitioner's account during the previous year relevant to the AY 2018-19. The petitioner was called upon to respond to the said notice by 22.08.2024.

7. The petitioner had filed an application dated 22.08.2024 seeking further time to file a response to the said notice. Apparently, the petitioner's application was accepted and the AO extended the time to file a response by another day – that is till 23.08.2024. The petitioner did not file her response

to the said notice within the extended period and, therefore, the AO had proceeded to pass the impugned order and issued a notice under Section 148 of the Act (hereafter *the impugned notice*).

8. It is the petitioner's case that although the petitioner was granted an adjournment by the AO, the same was not communicated to the petitioner, and the same was also not reflected on the tax portal.

9. The petitioner has explained that there is no ground for re-opening the assessment as she had jointly purchased the property in question (bearing No. KU-162, Pitampura, Delhi) with her husband for a consideration of ₹2,70,00,000/- as reported by the Sub-Registrar. She states that the entire consideration for the said property was paid by her husband Niranjan Kumar Garg and he had filed his return of income for the AY 2018-19 declaring the said purchase. She states that although the said property was held in joint name, she had not paid any consideration for the same.

10. In the given circumstances, we are of the view that it will be apposite for the AO to examine the facts as ascertained by the petitioner, before concluding that it was a fit case for re-opening of the assessment.

11. We are persuaded to accept that the petitioner had, on account of not being informed about the extension of time for filing the reply, in effect, been denied the opportunity to respond to the notice dated 14.08.2024.

12. In the given circumstances, we set aside the impugned order and the impugned notice. We direct the AO to consider the facts as stated in the present petition as the petitioner's response to the notice dated 14.08.2024 issued under Section 148A(b) of the Act and take an informed decision.

13. The petition is allowed in the above said terms.

14. Accordingly, the present petition is disposed of. Pending application is disposed of.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

NOVEMBER 4, 2024
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Click here to check corrigendum, if any