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

\+ W.P.(C) 15592/2024 & CM APPL. 65391/2024

PEQTOR REAL ESTATE PVT LTD .....Petitioner

Through: Mr. Ajay Vohra, Senior Advocate with Mr. Rohit Jain, Mr. Vivan Gupta and Mr. Saksham Singhal, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX & ORS. .....Respondents

Through: Mr. Vipul Agrawal, Sr. SC for Revenue.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **11.12.2024**

1. The Petitioner is aggrieved by order dated 27th September, 2024 issued by Respondent No. 1 under Section 24(4)(a)(i) of the Prohibition of Benami Property Transactions Act, 1988.[1]

2. The Petitioner purchased the immovable property situated at E-16, Pushpanjali Farms, Village Bijwasan, Kapashera, New Delhi from Vani Agencies Private Limited *vide* registered sale deed dated 27th October, 2023. Subsequently, on 28th June, 2024, Respondent No.1 issued a show cause notice under Section 24(1) of the PBPT Act alleging that the Petitioner was a benamidar and that the Petitioner had entered into a benami transaction in

[1] "PBPT Act"

respect of the aforenoted immovable property within the meaning of Section 2(9)(A) of the PBPT Act involving Mr. Gautam Thapar, as the alleged beneficial owner. Both the Petitioner and Mr. Thapar were served with notices.

3. On 15th July, 2024, Respondent No. 1 provisionally attached the property under Section 24(3) of the PBPT Act for a period of 90 days. In response to the show cause notice, the Petitioner submitted objections on 19th July, 2024. Subsequently, on 27th September, 2024, Respondent No. 1 passed an order under Section 24(4)(a)(i) of the PBPT Act, determining the property to be benami, and extending the provisional attachment till a final order is passed by Respondent No. 3, the Adjudicating Authority, under Section 26(3) of the PBPT Act. The matter remains pending before the Adjudicating Authority, with the Petitioner contesting the proceedings.

4. Aggrieved by the impugned order, the Petitioner has approached this Court invoking Article 226 and 227 of the Constitution of India, seeking quashing of the impugned order dated 27th September, 2024 on several grounds. During the course of hearing, Mr. Ajay Vohra, Senior Counsel for Petitioner, limits the relief sought to remanding the matter back to the Initiating Officer at the stage of Section 24(4) of the PBPT Act. He argues that the impugned order introduces several new facts and grounds, particularly those concerning M/s Ripping Financial Services, which were not included in the original show cause notice. The Petitioner was deprived of an opportunity to respond to the additional facts. Mr. Vohra argues that inclusion of new grounds at the stage of the impugned order violates the principles of natural justice, rendering the proceedings procedurally unlawful and unsustainable. He emphasizes that the process under Section

24(4) is a critical safeguard and not a mere formality, warranting an opportunity for the Petitioner to present their case comprehensively.

5. Mr. Vipul Agrawal, Sr. Standing Counsel for Revenue, strongly opposes the aforenoted request asserting that the proceedings were conducted in accordance with law and that the order under Section 24(4) is an essential step in the adjudicatory process. He asserts that the Petitioner can raise all their contentions before the Adjudicating authority.

6. The Court has considered the aforenoted contentions. On a perusal of the show cause notice, which has been extracted in the impugned order, the Court notes certain procedural lapses. The impugned order introduces new factual averments and allegations, notably those relating to Ripping Financial Services (Paragraph Nos. 15–20 of the impugned order), which were absent in the original show cause notice. This omission deprived the Petitioner of an opportunity to address material allegations that influenced the decision under Section 24(4)(a)(i) of the PBPT Act. The framework of the PBPT Act envisions a structured process, wherein each stage provides a meaningful opportunity to the parties to respond to the allegations. The procedural infirmities in the present case apparently violate this statutory scheme. In these peculiar facts and circumstances of the case, the Court is inclined to accept the request made by Mr. Vohra. Accordingly, the present writ petition is disposed of with the following directions:

(i) The impugned order dated 27th September, 2024 and all the proceedings emanating therefrom are hereby quashed.

(ii) The matter is remanded back to the Initiating Officer for fresh consideration at the stage of Section 24(4) of the PBPT Act.

(iii) The Initiating Officer shall now issue a supplementary show cause notice within a period of four weeks from today, incorporating the additional facts and grounds along with supporting materials not included in the original notice dated 28th June, 2024.

(iv) The Petitioner shall be permitted to respond to the supplementary notice within three weeks of its receipt. The Initiating Officer shall then consider the response and pass a fresh order in accordance with law within 90 days of receiving the Petitioner's response.

(v) Till such time a fresh order is passed under Section 24(4) of the PBPT Act, the subject property shall remain provisionally attached under Section 24(3) of the PBPT Act.

7. The Court has not commented on the merits of the contentions urged by the counsel for the parties. All rights and contentions of the parties are left open for adjudication in the proceedings before the Initiating Officer.

8. With the above directions, the petition is disposed of, along with pending application.

SANJEEV NARULA, J

DECEMBER 11, 2024

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