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

\+ W.P.(C) 5782/2023

GARIMA JAIN .....Petitioner

Through: Mr. Arjun Wadhwa, Adv.

versus

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

Through: Mr. Siddharth Sinha, Adv.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

<u>O R D E R</u>

% **03.02.2025**

1. We take note of the principal challenge which stood raised to the reassessment action and which stands duly encapsulated in our order of 04 May 2023. The said order reads thus:

> "2. This writ petition concerns Assessment Year (AY) 2019-2020.
> 3. It appears that the reassessment proceeding has been triggered against the petitioner, as the respondents/revenue received information that the petitioner had carried out sales worth 29,72,75,506/- during the period in issue, which is not reflected in the ITR filed by her.
>
> 4. The case of the respondent/revenue is that the petitioner has accorded accommodation enteries, against which she received commission at the rate of 2%, amounting to Rs. 59,45,506/-. It is this income which, according to the respondent/revenue, has escaped assessment.
>
> 5. It is in this backdrop that the petitioner was issued a notice dated 21.03.2023 under Section 148A(b) of the Income Act, 1961 [in short, "the Act"].
>
> 6. On the other hand, the petitioner has asserted that on 04.09.2020, she received a message from her Chartered Accountant that the reassessment proceeding had been commenced by the

respondent/revenue based on the allegation that she had entered into high value transactions for the AY in issue.

7. <u>It is the petitioner's assertion that this led her to make inquiries which revealed that two firms, i.e., Bhola Traders and Radha Trading Company, had registered with the Goods and Service Tax Authorities and misused the petitioner's PAN and Aadhar, which led to the respondents/revenue wrongly concluding that the petitioner had executed high value transactions.</u>

7.1 The petitioner claims that a police complaint has been lodged. We are also informed that the complaint with the concerned court has also been filed. It appears that the concerned court has not given a final decision on the matter.

8. In this context a hard (typed) copy of the order dated 21.04.2023 passed in CT Case No. 423/2023 titled ***Garima Jain vs State*** has been placed before us. It appears that the matter is listed before the concerned court on 07.08.2023.

9. Accordingly, issue notice.

9.1. Mr. Shailendera Singh, learned standing counsel, accepts notice on behalf of the respondents/revenue.

10. Counter-affidavit will be filed within six weeks.

10.1 Rejoinder thereto, if any, will be filed at least five days before the next date of hearing.

12. List the matter on 20.09.2023.

13. In the meanwhile, no precipitate action would be taken against the petitioner till further directions of the court.

14. Parties will act based on the digitally signed copy of the order."

2. As is manifest from the above, the solitary ground on which the re-assessment action was impugned was the allegation that the PAN and Aadhar Card of the writ petitioner had been unauthorisedly used by Bhola Traders and Radha Trading Company.

3. These and other questions which are sought to be canvassed before us clearly give rise to disputed issues of fact and which can at best only be resolved by the Assessing Officer ["**AO**"] in the course of assessment proceedings that may be undertaken. In view of the aforesaid, we find no justification to continue the writ petition on our board.

4. It shall, consequently, stand dismissed with rights of the petitioner being reserved to raise all contentions before the AO.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.

FEBRUARY 3, 2025/v