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* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ W.P.(C) 9586/2024 and CM APPL. 39361/2024

NADEEM KHAN

.....Petitioner

Through: Mr Wahaj Ahmad Khan, Advocate.

versus

INCOME TAX OFFICER, WARD 46(4) CIVIC CENTRE , MINTO ROAD NEW DELHI

.....Respondent

Through: Mr Siddhartha Sinha, SSC with Ms Anu Priya Nisha Minz, Advocate.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

O R D E R

% 07.05.2025

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 21.03.2024 passed by the Assessing Officer [**AO**] under Section 148A(d) of the Income Tax Act, 1961 [**the Act**] as well as the consequent notice issued under Section 148 of the Act.

2. The present petition was listed for the first time on 16.07.2024 and this court had passed the following order:

> "**CM APPL. 39360/2024 (Ex.)**
>
> Exemption allowed, subject to all just exceptions.
>
> Application stands disposed of.
>
> **W.P.(C) 9586/2024 & CM APPL. 39361/2024 (Interim Stay)**
>
> 1. Notice. Since the respondent is duly represented by Mr. Sinha, learned counsel, no further steps need be taken.
>
> 2. The petitioner impugns the initiation of action for re-assessment

under Section 148 of the Income Tax Act, 1961 ["Act"]. Learned counsel for the petitioner has firstly sought to contend that cash withdrawal would not fall within the ambit of the expression "asset" as defined under Section 149 of the Act and consequently argues that the initiation of action of re-assessment is invalid.

3. We, however, find that the Section 148A(b) notice had referred to the following transactions of deposits and withdrawals on the basis of which the Assessing Officer ["**AO**"] came to the conclusion that income chargeable to tax had escaped assessment. That chart is reproduced hereinbelow:

Information Code	Information Description	Source	Count	Amount description	Amount (Rs.)
SFT-003(D)	Cash deposits (including through bearer's Cheque in Current account	HDFC Bank Limited	1	Aggregate gross amount received from person in cash	12,51,500/-
SFT-014(C)	Cash deposits (in current account) during the period 09th November, 2016 to 30th December, 2016	HDFC Bank Limited	1	Aggregate gross amount credited to the account in cash from 09th day of Nov 2016 to 30th day of Dec 2016	2/-
SFT-003(W)	Cash withdrawals (including through bearer's Cheque in	HDFC Bank Limited	1	Aggregate gross amount received from person in	1,87,95,000/-

	current account			cash	

> 4. As is manifest from the above, an amount of INR 1,87,95,000/- was withdrawn from the HDFC bank account maintained by the writ petitioner. The said amount thus qualifies the threshold of INR 50,00,000/- which stands embodied in Section 149(1)(b) of the Act.
>
> 5. We note that the Explanation appended to Section 149(1)(b) while seeking to define the word "asset" also alludes to deposits in bank accounts. In view of the aforesaid, we are of the considered opinion that the assumption of jurisdiction cannot be assailed on the aforesaid ground.
>
> 6. We also find no merit in the contention of learned counsel who had sought to urge that a reading of Section 148A(d) order would seem to indicate that the AO was proposing to undertake a 'roving enquiry'. An ex facie reading of the aforesaid order would indicate that the opportunity accorded to the petitioner to produce supporting documentary evidence was preceded by the AO forming its prima facie opinion with respect to statement of income and which stands duly recorded. We consequently find no merit in the challenge raised on this score.
>
> 7. That only leaves us to deal with the last contention which was addressed and with it being submitted that the impugned notice has been issued by the jurisdictional AO as opposed to the procedure for assessment which is liable to be followed in light of the Faceless Scheme of Assessment. We note that this aspect is currently engaging our attention in W.P.(C) 262/2023 and other connected matters.
>
> 8. Restricted to the aforesaid issue, we call upon the respondents to file a reply within a period of four weeks from today. The petitioner shall have two weeks therefrom to file a rejoinder affidavit.
>
> 9. In the meanwhile, we provide that while it shall be open for the respondents to proceed further with the impugned re-assessment action, any orders adverse to the writ petitioner, if passed, shall not be given effect to till the next date.
>
> 10. Let the matter be called again on 04.10.2024."

3. It is clear from the above that the only question that remained to be

addressed, on account of which the present petition was kept pending, was whether the issuance of impugned notice was permissible by the Jurisdictional Assessing Officer. It is the petitioner's case that the said notice could only be issued by the Faceless Assessing Unit. This issue stands concluded in favour of the Revenue by a decision of this court in ***TKS Builders v. Income Tax Officer Ward 25(3) New Delhi***: ***Neutral Citation No.: 2024:DHC:8330-DB***.

4. In view of the above, the present petition is dismissed. Pending application is also disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 07, 2025/tr

Click here to check corrigendum, if any