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

\+ W.P.(C) 18864/2025 CM APPL. 78497/2025

\+ W.P.(C) 18867/2025 CM APPL. 78502/2025

\+ W.P.(C) 18868/2025 CM APPL. 78504/2025

SUBHASH INFRAENGINEERS PRIVATE LIMITED

.....Petitioner

Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Ms. Ananya Kapoor and Mr. Anat Kapoor, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 22(2) DELHI & ANR. .....Respondents

Through: Mr. Siddhartha Sinha, SSC

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

ORDER

% **08.01.2026**

1. By way of present Writ Petition, the petitioner has challenged the notice dated 11.07.2024 issued to the petitioner under Section 153C of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*).

2. Mr. Sumit Lalchandani, learned counsel for the petitioner argued that the proceedings under Section 153C of the Act of 1961 against the petitioner are not only arbitrary but also without application of mind inasmuch as the notice in question is based on the entries found in the ledger of other entity which was found at the premises of the searched person and the respondent No.1-Assessing Officer (*hereinafter referred to as 'AO'*) has not even taken into consideration that TDS is shown to have been deducted *qua* all the

transactions. He added that so far as the petitioner is concerned, all transactions are expenditure and they cannot be treated as creation of asset, so as to give the AO a handle to initiate the proceedings under Section 153C of the Act of 1961, as provided in fourth proviso to Section 153A of the Act of 1961.

3. Explaining the delay in approaching the Court and arguing that there is none, learned counsel contended that in response to petitioner's request for providing satisfaction note, the respondent provided the same on 27.01.2025, whereafter the petitioner furnished a reply on 09.06.2025 and without considering his reply dated 09.06.2025 or before deciding the petitioner's objections dated 10.07.2025, the respondent No.1-AO has issued a show cause notice to the petitioner on 04.11.2025 and asked him to explain the transactions & produce books of accounts.

4. Learned counsel argued that the action of the respondent No.1-AO is illegal and arbitrary inasmuch as it amounts to unnecessary harassment, because the proceedings initiated by him are fundamentally without jurisdiction and baseless.

5. Learned counsel for the respondents on the other hand submitted that the petitioner has rushed to this Court without waiting for the order of the AO. While admitting that the petitioner's objection has not been decided so far, learned counsel submitted that while passing the final order and concluding the proceedings, petitioner's objection even in relation to jurisdiction shall be considered by the AO.

6. Having heard learned counsel for the parties and upon consideration of material available on record, we are of the view that the petitioner-assessee has a plausible ground to resist or oppose the proceedings under

Section 153C of the Act of 1961. The foundational fact i.e. creation of an asset appears to be absent in the present case, inasmuch as the amount reflects expenditure and that too coupled with deduction of tax (TDS).

7. Such being the position, we deem it appropriate to direct the AO to firstly decide petitioner's objections filed vide representation/reply dated 09.06.2025 and 10.07.2025 within a period of fifteen days from today. It shall be required of the respondent No.1-AO to pass a reasoned order latest by 23.01.2026. The order so passed, shall be communicated to the petitioner on its registered email ID. In case, the AO decides to proceed further, in pursuance of the notice dated 04.11.2025, he shall keep the proceedings in abeyance till 02.02.2026, so that if required, the petitioner can avail its remedies against such decision in accordance with law.

8. Needless to state that the petitioner shall be allowed to file any judgment(s) in its support within a period of seven days before the AO.

9. All the Writ Petitions, alongwith pending applications (if any) stand disposed of accordingly.

DINESH MEHTA, J

VINOD KUMAR, J

JANUARY 8, 2026/ss