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

+ W.P.(C) 11873/2022 & CM APPL. 35474/2022

FORTUNE LAND AND HOUSING PVT LTD Petitioner

Through: Mr. Anand Chaudhuri, Advocate.

Versus

PRINCIPAL COMMISSIONER OF
INCOME TAX 1 & ORS.

..... Respondents

Through: Mr. Kunal Sharma, Sr. Standing
Counsel for Revenue with Ms.Zehra
Khan, Jr.Standing Counsel and
Mr.Shubhendu Bhattacharya,
Advocate.
Mr.L.R.Goyal, Advocate for R-3.

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Date of Decision: 17th August, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, J (Oral):

1. Present writ petition has been filed challenging the notice dated - 05th March, 2019 issued under Section 226(3) of the Income Tax Act, 1961 [‘the Act’] for the Assessment Years [‘AYs’] 2011-12 and 2013-14, which has not been supplied to the Petitioner. Petitioner seeks a direction to the



Respondents to release the bank account of the Petitioner held with the Axis Bank from attachment and allow the Petitioner to operate the same and to grant a stay on the demands raised as a consequence of the reassessment orders passed for AYs 2011-12 and 2013-14.

2. Learned counsel for the Petitioner states that during regular assessment for the AY 2015-16, an addition of Rs.8,91,62,716/- was made against the Petitioner on account of enhanced compensation sum (including interest) received from HUDA vide assessment order dated 20th November, 2017 passed under Section 143(3) of the Act. He states that the addition was later deleted by the CIT(A) vide order dated 08th March, 2018 passed under Section 250(6) of the Act. He further states that an appeal filed by the revenue against the said order is currently pending before the ITAT. He states that the enhanced compensation received by the Petitioner from HUDA was duly transferred to Orris in accordance with the agreement between the Petitioner and Orris and the same was offered to tax by Orris as its business income which has been accepted by the authorities vide assessment order passed in the case of Orris for the AY 2015-16.

3. Learned counsel for the Petitioner states that reassessment proceedings were initiated against the Petitioner for the AYs 2011-12 and 2013-14 solely based on the facts observed during assessment proceedings for AY 2015-16. He states that reassessment orders dated 14th December, 2018 under Section 143(3) read with Section 147 of the Act were passed making additions of Rs.4,22,86,632/- and Rs.61,32,505/- for AYs 2011-12 and 2013-14 respectively on account of enhanced compensation received from HUDA. He further states that the reassessment orders have been challenged by the Petitioner before the appellate authorities and are



currently pending adjudication.

4. Learned counsel for the Petitioner states that during the pendency of the appellate proceedings, the impugned notice dated 05th March, 2019 was issued attaching the Petitioner's bank account held with the Axis Bank. He states that contrary to the mandatory statutory procedure prescribed under Section 226(3)(iii) of the Act and principles of natural justice, the impugned notice has not been served or provided to the Petitioner by Respondent No.2 or the Income Tax Department till date. He further states that the Petitioner addressed representations to the authorities seeking a stay on the recovery of the total demand raised against the Petitioner aggregating to Rs.3,14,43,360/- for AYs 2011-12 and 2013-14 and for release of attached bank account of the Petitioner, however the same have not been decided till date.

5. A perusal of the paper book reveals that the Respondents have also not decided the stay application dated 07th October, 2020 filed by the Petitioner till date.

6. Keeping in view the long passage of time, the present writ petition is disposed of with a direction to the Respondent No.2 to decide the Petitioner's stay application dated 7th October, 2020 within two weeks in accordance with law. While deciding the stay application, the Respondent No.2 shall keep in mind the order passed by the CIT(A) dated 08th March, 2018, CBDT Circular/Office Memorandum dated 29th February, 2016 and 31st July, 2017 as well as the CBDT Circular dated 06th March, 1989. The Respondent is also directed to furnish the notice dated 05th March, 2019 to the Petitioner within a week.



7. With the aforesaid directions, the present writ petition along with the pending application stands disposed of.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

AUGUST 17, 2022/msh



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