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

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Date of decision: 06.03.2023

+ **W.P.(C) 2848/2023**

PRADEEP VERMA

..... Petitioner

Through: Mr Dinesh Mohan Sinha, Adv.

versus

INCOME TAX OFFICER

..... Respondent

Through: Mr Gaurav Gupta, Adv. with
Mr Puneet Singhal and Mr Shivendra
Singh, Advs.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MS JUSTICE TARA VITASTA GANJU

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J.: (ORAL)

1. Issue notice.

1.1 Mr Gaurav Gupta accepts notice on behalf of the respondent/revenue.

2. In view of the directions that we intend to pass, Mr Gupta says that no counter-affidavit is required to be filed. Accordingly, with the consent of the counsels for the parties, this writ petition is taken up for hearing and final disposal, at this stage itself.

3. This writ petition is directed against the notice dated 25.05.2022 issued under Section 148A(b) of the Income Tax Act, 1961 [in short "Act"].

3.1 Besides this challenge is also laid to the order dated 22.07.2022 passed under Section 148A(d) of the Act.

4. The principal allegation levelled against the petitioner is that he had purchased immovable property worth Rs. 3 crores during the Financial Year

2013-14 [Assessment Year (AY) 2014-15], whereas he had filed a return in which the income declared was Rs.3,16,540/-.

5. The record shows that the reassessment proceedings have been triggered based on information received by the respondent/revenue *via* a Tax Evasion Petition (TEP).

6. A perusal of the order dated 22.07.2022 passed under Section 148A(d) of the Act shows that the Assessing Officer (AO) has noted the contention of the petitioner, which is that he had not purchased an immovable property worth Rs. 3 crores.

6.1. This stand of the petitioner is contained in the petitioner's reply dated 09.06.2022.

6.2. Although the petitioner had indicated that he had filed his bank statement for the relevant period to demonstrate that he had not purchased immovable property worth Rs. 3 crores; concededly, the bank statement was not placed on record.

6.3. The petitioner claims that this bank statement was transmitted to the AO *via* email. Mr Dinesh Mohan Sinha, who appears on behalf of the petitioner, on being queried, says that inadvertently, email has not been placed on record.

7. Furthermore, a perusal of the assertions made in the list of dates attached to the writ petition shows that the petitioner claims that he jointly purchased an immovable property worth Rs.45,00,000/-, along with Mr Radheyshyam.

7.1. The petitioner avers that he has half-share in the said property and that he had paid towards his half-share, on 26.08.2013, money amounting to Rs.22,50,000/- *via* a banking instrument.

7.2. It is claimed that this aspect was disclosed by the petitioner in his Income Tax Return (ITR).

7.3. In support of this plea that the petitioner had not purchased any immovable property worth Rs. 3 crores, Mr Sinha has drawn our attention to the copy of the bank statement of the petitioner, which is marked as Annexure P-5 and appended at page 50 of the case file.

8. Clearly, the petitioner has been remiss in not placing the bank statement before the AO. The AO, however, it seems, proceeded based on the allegation made in the TEP.

9. The record shows that the petitioner has taken the stand that he has purchased half-share in an immovable property worth Rs. 45,00,000/-.

10. Given the aforesaid backdrop, we are of the view that the best way forward would be for the AO to take into account the stand of the petitioner before us, with regard to the allegation made in the TEP.

10.1. This would also include the bank statement appended as Annexure P-5 to the writ petition.

11. The AO will also furnish information, if any, that is available with him with regard to the alleged purchase of property by the petitioner, worth Rs. 3 crores.

12. The writ petition is disposed of in the aforesaid terms.

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

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

MARCH 6, 2023/SA