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

% ***Date of Decision: 20.09.2023***

+ **W.P.(C) 12368/2023**

RAMRATI

..... Petitioner

Through: Ms Shurbhi Chandra, Advocate.

versus

INCOME TAX OFFICER WARD 34(5) DELHI & ANR.

..... Respondents

Through: Mr Vipul Agrawal, Sr. Standing Counsel with Mr Gibran Naushad and Ms Shakshi Shairwal, Jr. Standing Counsels.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

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

RAJIV SHAKDHER, J. (ORAL):

CM APPL. 48825/2023

1. Allowed, subject to just exceptions.

W.P.(C) 12368/2023 & CM Appl. 48824/2023 [*Application filed on behalf of the petitioner seeking interim relief*]

2. Issue notice.

2.1 Mr Vipul Agrawal, learned senior standing counsel, accepts notice on behalf of the respondents/revenue.

3. Given the directions that we intend to pass, Mr Agrawal says that he does not wish to file a counter-affidavit in the matter, and he will argue the case based on the record presently available with the court.



4. Via this writ petition, the petitioner seeks to challenge the order dated 25.03.2023 passed under Section 148A(d) of the Income Tax Act, 1961 [in short, “Act”] and consequent notice of even date, i.e, 25.03.2023, issued under Section 148 of the Act.
5. The impugned order and notice concern Assessment Year (AY) 2016-17.
6. A perusal of the notice dated 24.02.2023 issued under Section 148A(b) of the Act discloses that the allegations made *qua* the petitioner is that she sold the subject property and received consideration against the sale, which was not disclosed.
7. According to the respondents/revenue, the consideration received by the petitioner was Rs.1,52,50,000/-.
8. The aforementioned notice also discloses that this information was obtained by the respondent/revenue *via* the Non Filing Monitoring (NMS).
9. Based on this allegation, the petitioner was directed to file a reply on or before 06.03.2023. It appears that the petitioner sought accommodation *via* a request made on 06.03.2023 and accordingly, she was granted further time to file a response, *albeit*, by 15.03.2023.
10. The petitioner claims that a reply dated 14.03.2023 was uploaded on the designated portal on 15.03.2023. Although the petitioner has failed to place on record any material to back its claims, Mr Agrawal says that he has obtained instructions that the reply of the petitioner was available on the designated portal, on the date set forth hereinabove.
11. A perusal of the impugned order dated 24.03.2023 passed under Section 148A(d) of the Act shows that the Assessing Officer (AO) has proceeded on the basis that no response was filed by the petitioner, which



according to the instruction received by Mr Agrawal, is not correct.

12. Therefore, in our opinion, the principles of natural justice have been violated as submitted by Ms Shurbhi Chandra, advocate, who appears on behalf of the petitioner.

13. Thus, according to us, the best way forward would be to set aside the impugned order and notice.

14. It is ordered accordingly.

15. Liberty is, however, given to the AO to pass a fresh order, after taking into account the reply filed by the petitioner. Furthermore, the AO will also accord a personal hearing to the petitioner and/or her authorised representative. For this purpose, the AO will issue a notice to the petitioner.

16. As is evident, we have not expressed any opinion on the merits of the case; the AO will be free to decide the matter on merits, having regard to the reply and submissions made in support of the petitioner's case.

17. The writ petition is disposed of, in the aforesaid terms.

17.1 Consequently, pending application shall stand closed.

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

RAJIV SHAKDHER, J.

GIRISH KATHPALIA, J.

SEPTEMBER 20, 2023/R.Y

Click here to check corrigendum, if any