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

% **Decision delivered on: 20.12.2023**

+ **W.P.(C) 7057/2023**

HABITAT INFRACON PRIVATE LIMITED Petitioner

Through: Mr Ved Jain, Mr Nischay Kantoor
and Soniya Dodeja, Advs.

versus

INCOME TAX OFFICER, WARD 11(1), DELHI
& ORS.

..... Respondents

Through: Mr Shlok Chandra, Sr. Standing
Counsel.
Ms Bakshi Vinita, SPC for R-5.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

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

RAJIV SHAKDHER, J. (ORAL):

1. The aforementioned writ petition was listed in the first instance on 23.05.2023.
2. After hearing counsel for the parties, we had broadly etched out the contours of the case.
3. For convenience, relevant parts of the order dated 23.05.2023 are extracted hereafter:

"2. This writ petition concerns Assessment Year (AY) 2013-14.

3. Mr Ved Jain, who appears on behalf of the petitioner, says that the initial notice issued under Section 148 of the



Income Tax Act, 1961 [in short, "Act"] which is dated 30.06.2021, was dispatched to the petitioner via e-mail dated 16.07.2021 [See Annexure P-2A (colly.) appended on page 112, and Annexure P-2B (colly.) appended on page 114 of the case file].

4. It is Mr Jain's contention that the proceeding taken out against the petitioner is clearly time-barred, as the window available to the respondents/revenue for issuance of fresh notices, under the new regime, was available only between 01.04.2021 and 30.06.2021.

4.1 In support of his contention, Mr Jain has relied upon the following orders:

*(i) Order dated 13.03.2023 passed in W.P.(C)No.16974/2022, titled **Genesis Colors Ltd. v. ACIT & Ors.***

*(ii) Order dated 14.12.2022 passed in W.P.(C)No.12220/2022, titled **Vinayak Services Pvt. Ltd. v. ITO & Ors.***

5. Issue notice. 5.1 Mr Shlok Chandra, learned senior standing counsel, accepts notice on behalf of the respondents/revenue.

6. Mr Chandra seeks a short accommodation to return with instructions.

7. List the matter on 01.06.2023.

8. Till the next date of hearing, the operation of the impugned order dated 29.06.2022 passed under Section 148A(d), and the consequential notice of even date, i.e., 29.06.2022, issued under Section 148 of the Act shall remain stayed."

4. Although opportunity was given to file a counter-affidavit, both on 23.05.2023 and thereafter, no counter-affidavit has been filed on behalf of the respondents/revenue.

5. Mr Shlok Chandra, learned senior standing counsel, who appears on behalf of respondents/revenue, has not brought on record anything that would demonstrate that the impugned notice dated 30.06.2021, issued under Section 148 of the Income Tax Act, 1961 [in short, "Act"], was dispatched on the same date.



6. As indicated in our order dated 23.05.2023, what is on record is an email dated 16.07.2021, which is clearly suggestive of the fact that the aforementioned impugned notice was transmitted on the said date to the petitioner.

7. Furthermore, a perusal of the impugned notice dated 30.06.2021 shows that it does not bear the time-stamp or the digital signature of the concerned Assessing Officer (AO).

8. The obvious conclusion that one can arrive at is that the impugned notice was not dispatched on 30.06.2021.

9. Given this position, Mr Chandra cannot but accept that the reassessment proceedings are time-barred. The AO could have issued a fresh notice, *albeit* under the new regime, only between 01.04.2021 and 30.06.2021.

10. Clearly, the circumstances obtaining in the present case are that the impugned notice was issued after 30.06.2021, resulting in the proceedings being rendered time-barred. This issue stands covered *via* a series of judgments passed by this court. Some of those judgments are referred to hereinafter:

(i) Order dated 13.03.2023 passed in W.P.(C) 16974/2022, titled ***Genesis Colors Limited vs Assistant Commissioner of Income Tax(OSD) Range-10 & Ors.***

(ii) Order dated 14.12.2022 passed in W.P.(C) 12220/2022, titled ***M/s Vinayak Services Pvt Ltd vs Income Tax Officer Ward 26(3) Delhi.***

(iii) Order dated 13.03.2022 passed in W.P.(C) 1525/2023 & 1526/2023, titled ***M/s Holy Building Solutions Private Limited vs Income Tax Officer, Ward 11 (1) Delhi & Anr.***



(iv) *Himanshu Infratech Pvt. Ltd vs Income Tax Officer & Ors.*,
2023:DHC:5197-DB.

11. Given this position, the impugned notice dated 30.06.2021, the notices dated 14.05.2022 and 21.05.2022 issued under Section 148A(b) of the Act, order dated 29.06.2022 passed under Section 148A(d) of the Act and consequent notice dated 29.06.2022 issued under Section 148 of the Act are set aside.
12. The writ petition is disposed of in the aforesaid terms.
13. Accordingly, the interim order dated 23.05.2023, which was made absolute on 28.07.2023, shall stand vacated.
14. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J.

GIRISH KATHPALIA, J.

DECEMBER 20, 2023/R.Y

Click here to check corrigendum, if any