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

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Decision delivered on: 01.06.2023

+ **W.P.(C) 8050/2023 & CM Nos.30997-98/2023**

ANITA ARORA

..... Petitioner

Through: Mr Pranay Mohan Govil and Ms
Ritambhara Narang, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME
TAX CIRCLE INT TAX 1(1)(1) & ORS.

..... Respondents

Through: Mr Puneet Rai, Sr Standing Counsel
with Mr Ashvini Kumar, Standing
Counsel.

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 No.30998/2023

1. Allowed, subject to just exceptions.

**W.P.(C) 8050/2023 & CM No.30997/2023 [Application filed on behalf of
the petitioner seeking interim relief]**

2. Issue notice.

2.1 Mr Puneet Rai, learned standing counsel, accepts notice on behalf of
the respondents/revenue.



3. Given the directions that we propose to pass, Mr Rai says that he does not wish to file a counter-affidavit and he will argue the matter based on the record presently available with the court. Therefore, with the consent of learned counsels for the parties, the writ petition is taken up for hearing and final disposal at this stage itself.

4. This writ petition concerns Assessment Year (AY) 2016-17.

5. A perusal of the notice dated 04.03.2023 issued under Section 148A(b) of the Income Tax Act, 1961 [in short, "Act"] shows that the allegation made against the petitioner is that the source of funds amounting to Rs.1,90,00,000/- could not be ascertained.

5.1 A perusal of the very same notice also shows that this information appears to have been gleaned from the TDS statement, which adverts to consideration received on sale of the subject property.

5.2 Besides this, the notice also refers to acquisition of bonds/debentures.

6. Insofar as the sale of property was concerned, it appears that the petitioner, admittedly, received Rs.1,55,00,000/- and invested Rs.35,00,000/- in bonds. It is in this context that the notice was issued.

7. The record also shows that the petitioner did file a reply, wherein the details of the sale consideration received *qua* the subject immovable property were furnished.

7.1 In the reply, it was emphasized that the transaction was concluded in the immediately preceding AY, i.e., AY 2015-16.

8. Learned counsel for the petitioner says that the buyer of the subject property had committed an error by depositing tax for the AY in issue, i.e.,



AY 2016-17.

8.1 It is also submitted that a course correction was made when an order under Section 154 of the Act was passed. In this context, our attention has been drawn to the order dated 20.07.2020 passed under Section 154, read with Section 143(1) of the Act.

9. It is contended by learned counsel for the petitioner that, resultantly, demand for the AY 2015-16 was reduced to “nil”.

10. In sum, it is the submission of the learned counsel for the petitioner that this very transaction, as noted above, was put under the scanner for the AY in issue, i.e., AY 2016-17.

11. Learned counsel for the petitioner says that, had the AO taken into account the petitioner’s reply dated 11.04.2023, the impugned order may not have been passed.

12. Mr Rai says that the record, as is presently available, does show that the transactions concerning the immovable property occurred in AY 2015-16 and tax at source *qua* the transaction has been deducted.

12.1 Therefore, it is suggested that the impugned order be set aside, with liberty to the AO to reexamine the issue at hand.

13. Accordingly, the impugned order dated 13.04.2023 is set aside.

13.1 Resultantly, the consequential notice dated 14.04.2023 will collapse.

14. In case the AO recommences the proceedings, he will issue a fresh notice to the petitioner.

14.1 The AO will also accord personal hearing to the petitioner and/or her authorized representative. In this behalf, the AO will issue a notice indicating the date and time of hearing.



- 14.2 Needless to add, the AO will pass a speaking order, a copy of which will be furnished to the petitioner.
15. The writ petition is disposed of in the aforesaid terms. Consequently, the pending application shall stand closed.
16. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

JUNE 1, 2023

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