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

% *Date of Decision: 07.07.2023*

+ **W.P.(C) 8943/2023**

RAJNISH YADAV

..... Petitioner

Through: Mr Sanjeev Kumar, Advocate.

versus

INCOME TAX OFFICER, WARD 62 (1), DELHI

..... Respondent

Through: Mr Prashant Meharchandani, Sr
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 Appl.33920/2023

1. Allowed, subject to just exceptions.

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2. Issue notice.

2.1 Mr Prashant Meharchandani, learned senior standing counsel, accepts notice on behalf of the respondent/revenue.

3. In view of the direction that we propose to pass, Mr Meharchandani says that a counter-affidavit need not be filed, and he will argue the matter based on the record presently available with the court.



4. The record shows that the principal allegation against the petitioner is that he is the beneficiary of an accommodation entry provided by one, Mr Sanjay Jain.
5. It is alleged that bogus purchases have been made by the petitioner. The value of the bogus purchases has been pegged at Rs.11,98,577/-.
6. In this context, the petitioner was issued a notice dated 29.03.2023 under Section 148A(b) of the Income Tax Act, 1961 [in short, "Act"].
 - 6.1 *Via* the said notice, the petitioner was granted time to file a response, albeit up until 10.04.2023.
7. The record shows that on 04.04.2023, the petitioner filed a response, although not on merits, but to indicate to the Assessing Officer (AO) that the necessary information/material, which formed the basis of the allegation levelled against him, had not been furnished to him,
8. It appears that the AO, without furnishing the relevant information/material, proceeded to pass the order dated 13.04.2023 under Section 148A(d) of the Act.
9. A perusal of the said order shows that there is a reference to the statement made by Mr Sanjay Jain under Section 132(4) of the Act. This statement, according to the petitioner, was not furnished to him.
10. Given this position, the best way forward would be to set aside the impugned order dated 13.04.2023, with a direction to the AO to carry out a *de novo* exercise, after relevant information/documents are furnished to the petitioner.
11. It is ordered accordingly.
12. Accordingly, the impugned order dated 13.04.2023 is set aside.



13. Liberty is, however, given to the AO to pass a fresh order, as indicated above, after relevant documents/information are furnished to the petitioner before proceeding in the matter.

13.1 Relevant material/information will be furnished to the petitioner within the next two weeks.

13.2 The petitioner will be at liberty thereafter to file a reply.

13.3 A reply will be filed within four (4) weeks of receipt of the relevant material/information.

13.4 The AO will deal with all the contentions that the petitioner may choose to raise in the reply, both on merits, as well as on jurisdiction, in his reply.

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

15. The parties will act based on digitally signed copy of the order.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

JULY 7, 2023/pmc