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

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Date of Decision: 12.07.2023

+ **W.P.(C) 9168/2023**

SUKHMEET KAUR

..... Petitioner

Through: Mr Aditya Kumar Garg, Adv.

versus

INCOME TAX OFFICER WARD 28 1 AND ANR..... Respondents

Through: Mr Shlok Chandra, Sr Standing
Counsel with Ms Priya Sarkar,
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.34884/2023

1. Allowed, subject to just exceptions.

W.P.(C) 9168/2023 & CM Appl.34883/2023 [*Application filed on behalf of the petitioner seeking interim relief*]

2. It is not disputed by the counsel for the petitioner that although a notice dated 23.02.2023 was served on the petitioner under Section 148A(b) of the Income Tax Act, 1961 [in short, "Act"], she failed to respond to the same.

3. It appears that, as a result, the Assessing Officer (AO) proceeded to pass an assessment order dated 21.03.2023, under Section 148A(d) of the Act.



4. The case set up against the petitioner is that she had entered into a high value transaction concerning an immovable property, *qua* which there was no visibility, since the petitioner had not filed her income tax return for the Assessment Year (AY) in issue, i.e., AY 2016-17.

5. The petitioner claims that the AO has committed an error, inasmuch as the transaction *qua* the same property has been taken into account twice over.

5.1 Furthermore, it is stated by the counsel for the petitioner that the petitioner was a 50% owner of the subject immovable property.

6. Unfortunately, these facts were not brought to the notice of the AO by the petitioner at the relevant stage. The relevant stage for bringing these facts to the notice of the AO was when the notice under Section 148A(b) was served on the petitioner.

7. Given these circumstances, Mr Shlok Chandra, learned senior standing counsel, who appears on behalf of the respondents/revenue, says that if an assessment order is not passed, the AO will issue a show cause notice, and the petitioner will have liberty, at that stage, to put forth her stand *vis.-a-vis.* the transaction in issue, along with the relevant documents.

7.1 Furthermore, Mr Chandra says that he refutes the stand taken by the petitioner, that the transaction *qua* the same property, has been taken into account by the respondent/revenue twice over.

8. We may note that counsel for the petitioner, on instructions, states that up until now, no assessment order has been passed.

9. The writ petition is thus, disposed of, with a direction that the AO will issue a show cause notice to the petitioner. The show cause notice will grant



sufficient time to the petitioner to file a response.

10. The petitioner will have liberty not only to file a reply, but also to furnish relevant documents in support of her stand.

11. The AO will pass an assessment order, in which he will deal with the reply filed by the petitioner *vis.-a-vis.* the aforementioned show cause notice.

12. Needless to add, since we have not examined the merits of the case, nothing stated hereinabove will impact the assessment order that the AO will passed hereafter.

13. Consequently, pending interlocutory application shall stand closed.

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

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

JULY 12, 2023/pmc

Click here to check corrigendum, if any