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

% *Date of decision: 22.09.2023*

+ **W.P.(C) 12569/2023**

DHIRU BUILDERS AND PROMOTERS PRIVATE LIMITED

..... Petitioner

Through: Mr Ritaj Kacker, Advocate.

versus

INCOME TAX OFFICER WARD 7(1) DELHI Respondent

Through: Mr Vipul Agrawal, Sr. Standing
Counsel with Mr Gibran Naushad and
Ms Shakshi Shairwal, 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. 49580/2023

1. Allowed, subject to just exceptions.

W.P.(C) 12569/2023 and CM APPL. 49579/2023 [*Application filed on behalf of the petitioner seeking interim relief*]

2. This writ petition concerns Assessment Year (AY) 2019-20.

3. *Inter alia*, the petitioner seeks to assail the order dated 31.03.2023 passed under Section 148A(d) of the Income-tax Act, 1961 [in short, “the Act”] and the consequential notice of even date i.e., 31.03.2023, issued under Section 148 of the Act.



4. The record shows that the petitioner was issued a notice dated 17.03.2023 under Section 148A(b) of the Act. *Via* the said notice, it was, *inter alia*, alleged that there were unexplained cash and non-cash deposits found in the bank account maintained by the petitioner/assessee. The amount was pegged at Rs. 2,16,50,109/-.

5. The allegation levelled against the petitioner/assessee was based on the information received through the Insight Portal under 'High Risk CRIU/VRU information', in accordance with the risk management strategy formulated by the Central Board of Direct Taxes [in short, "CBDT"]. The relevant extract of the allegation levelled against the petitioner reads as follows:

"...In this case information has been received on Insight portal dated: 17.03.2023 from the office of Investigation Wing, Delhi wherein it has been stated that suspicious transaction were recorded in bank account (no-600700301000578) with Vijaya bank of M/s Dhiru Builders and promoters Pvt Ltd. From date of opening ie. 23.08.2018, covering period of 4 years, total debits and credits were of Rs 5.09 Crore each. Most of the credits amount to Rs 1.82 crore were received from single current account of M/s Harisimrat Investment Pvt Ltd (A/c No - 600700300004831) which were transferred to various third parties. Credit of Rs 1.82 crore were also received from M/s Omkam Capital Markets Pvt Ltd which was further transferred to M/s Harisimat Investment Pvt Ltd. Account was opened with initial credit of Rs 10000/- and at present balance [sic...balance] is at Rs 5618/- , which shows that account was open for sole purpose of routing the funds i.e. [sic...i.e.] to provide accommodation entry. Moreover, in response to summon issued u/s 131 of I.T. Act, by investigation wing, New Delhi, assessee submitted that company is engaged in real estate business but due to recession it could not take any viable project and hence invested its fund in equity shares for capital appreciation. From perusal of its balance sheet, it is evident that funds introduced through security premium and borrowing are deployed in quoted/unquoted equities against its economic rationale [sic...rationale] when it has no active business. During the year assessee has unexplained credit of Rs 2,16,50,109/- in its account.....".

6. In the reply filed by the petitioner/assessee, an attempt was made to explain the credit entries found in the bank statement. *Inter alia*, it was



contended that the petitioner/assessee and other related parties had availed a secured loan from an entity going by the name Globe Fincap Limited (GFL). It was asserted that the loan given to the petitioner/assessee was secured by personal and corporate guarantees, in addition to the creation of charges on securities and immoveable property.

7. More particularly, it was emphasized that a record of the transactions as per the petitioner/assessee's bank account statement would show that it had received, cumulatively, money amounting to Rs. 1,93,90,109/-, and made payments amounting to Rs. 1,93,97,578/-, that included bank charges of Rs. 2578/-. The details of the receipts and payments, as provided by the petitioner/assessee, are as follows:

S. No.	Party	Receipts	Payments
1	Cash	20,45,000	1,00,000
2	Globe Fincap Limited	1,60,00,000	42,66,000
3	Harsimrat Pvt Ltd	8,85,000	89,39,000
4	Neelabh Spinning Mills Limited	4,60,000	9,75,000
5	Omkam Capital Market Pvt Limited	109	
6	MPS Informatic Pvt Limited		15,00,000
7	MPS Exim Pvt Ltd		34,40,000
8	Media Magic Telecommunications Pvt Ltd		1,75,000
9	Bank Charges		2,578
		1,93,90,109	1,93,97,578

8. Therefore, the learned counsel for the petitioner/assessee contends that the allegation made in the show cause notice issued under Section 148A(b) of the Act does not align with the record of transactions produced by the petitioner/assessee.

9. Mr Vipul Agrawal, learned senior standing counsel who appears on behalf of the respondent/revenue, says that the reassessment proceeding was triggered against the petitioner/assessee based on the information received



from the Financial Intelligence Unit (FIU), captured by the Insight portal.

9.1 According to him, certain aspects have emerged that would require further enquiry and examination by the Assessing Officer (AO).

9.2 Mr Agrawal says that the difference between the cumulative amount flagged by the AO and the total receipts indicated in the reply filed by the petitioner are not vastly different.

10. We have heard learned counsel for the parties. We are of the view that the matter may require further enquiry by the AO during the reassessment proceeding.

11. We may note that we had asked counsel for the petitioner as to whether a loan agreement was executed between the petitioner/assessee and GFL, and if such an agreement, whether it has been placed on record. Counsel for the petitioner says that the loan agreement has not been placed before the court, although it was furnished to the AO.

12. Insofar as this court is concerned, it is completely blindsided as to the terms of the loan agreement between the petitioner/assessee and GFL.

13. Insofar as receipt of cash amounting to Rs. 20,45,000/- is concerned, the explanation given on behalf of the petitioner/assessee is that it had provided services by way of interior work, and sold some investments to the company going by the name Prashant Softwares Pvt. Ltd.

13.1 These are aspects, which in our view, would also require examination by the AO.

14. We are not, at this stage, persuaded to interdict the reassessment proceeding. Accordingly, the writ petition is dismissed. However, it is made clear that before the AO proceeds further, he would furnish the material information that is in his possession, which may not have been



provided to the petitioner/assessee.

15. The pending application shall also stand closed.
16. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

SEPTEMBER 22, 2023 / tr