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

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Decision delivered on: 24.08.2023

+ **W.P.(C) 9127/2023 & CM No.34721/2023**

RTPL MARKETING PRIVATE LIMITED

..... Petitioner

Through: Mr Gautam Jain, Mr Shaantanu Jain and Mr
Deepanshu Jain, Advs.

versus

INCOME TAX OFFICER, WARD-20(3), NEW DELHI.. Respondent

Through: Mr Sunil Agarwal, Sr Standing Counsel
with Mr Shivansh B. Pandya, Standing
Counsel and Mr Utkash Tiwari, Adv.

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. Before proceeding further, we may note that a typographical error has crept in paragraph 9 of the order dated 12.07.2023 passed by this court.

1.1 In the aforesaid paragraph, the date of the order passed under Section 148A(d) of the Income Tax Act, 1961 [in short, "Act"] has been noted as 25.03.2023, whereas the correct date is 27.03.2023.

2. The order dated 12.07.2023 shall stand corrected to that extent. All other parts of the order dated 12.07.2023 will remain unaltered

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

4. The principal allegation against the petitioner is that the purported



sale transaction that it entered into with Sethi International, a proprietor concern, is not verifiable. The value of the transaction has been pegged at Rs.31,00,000/-.

5. According to the respondent/revenue, the proprietor of Sethi International, one Mr Manjeet Singh, has not filed his Return of Income (ROI) in the AY in issue, i.e., AY 2019-20.

6. This matter was listed before the court for the first time on 12.07.2023 wherein, after hearing the learned counsel for the parties for a brief while, we recorded the following broad facts:

2. *This writ petition concerns Assessment Year (AY) 2019-20.*
3. *The reassessment proceeding has been initiated against the petitioner/assessee on account of suspicious transactions flagged by the concerned bank, i.e., Punjab National Bank (PNB).*
4. *In the period in issue, i.e., AY 2019-20, Rs.31,00,000/- was found credited in the subject bank account.*
5. *Accordingly, a notice dated 13.03.2023 was issued under Section 148A(b) of the Income Tax Act, 1961 [in short, "Act"].*
6. *The petitioner responded to the said notice via reply dated 16.03.2023.*
7. *The stand that the petitioner took was that it had sold goods worth Rs.31,00,000/- to an entity going by the name, Sethi International.*
8. *Sethi International, concededly, is a proprietorship concern of one, Mr Manjeet Singh.*
9. *The Assessing Officer (AO), after considering the reply and the material on record, passed an order dated 25.03.2023 [sic : 27.03.2023] under Section 148A(d) of the Act.*
10. *To be noted, with the reply, the petitioner had furnished copies of invoices, as well as the transporters receipts.*
11. *The record reveals that the petitioner has sold khadi yarn to Sethi International.*
12. *Mr Sunil Agarwal, learned senior standing counsel, who appears on behalf of the respondent/revenue, points out that the transporters receipts do not provide the G.R. Number.*
13. *According to Mr Agarwal, this is a serious lacuna in the transporter receipts, and would thus require further enquiry by the AO in the course of the assessment proceedings.*



14. *On being queried, Mr Gautam Jain, who appears on behalf of the petitioner/assessee, says that the petitioner/assessee is not a manufacturer of khadi yarn.*

15. *We would, therefore, like Mr Jain to place on record the supplier's invoices, and the attendant documents via which supplies were received.*

15.1 *The documents will be placed on record within two (2) weeks. Copies of the same will be furnished to Mr Agarwal.*

16. *List the matter on 24.08.2023."*

7. Pursuant to the hearing held on 12.07.2023, Mr Gautam Jain, who appears on behalf of the petitioner, has filed certain additional documents, which includes invoices and documents seeking to establish the movement of the goods in issue, i.e., khadi yarn, from the petitioner to the purchaser, which, as indicated on 12.07.2023, is a proprietorship concern going by the name Sethi International.

8. Mr Sunil Agarwal, learned senior standing counsel, who appears on behalf of the respondent/revenue, submits that these documents were not made available to the Assessing Officer (AO) at the relevant point in time.

9. According to us, since these documents have emerged, the best way forward would be to have the AO examine the same and reach a definitive conclusion. The reason that we are inclined to move in this direction is on account of the fact that the petitioner claims that the consideration received on the sale of khadi yarn to Sethi International has already been offered to tax.

9.1 In other words, it is the submission of Mr Jain that the tax having been collected, the aspect concerning the existence of Sethi International loses its significance.

10. In our view, this aspect can be examined by the AO while passing a



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fresh order.

11. Accordingly, the impugned order dated 27.03.2023 is set aside.

11.1. Liberty is, however, granted to the AO to pass a fresh order.

11.2 The AO while passing a fresh order will take into account the documents that have been filed before us.

11.3 The AO will also accord personal hearing to the authorized representative of the petitioner.

11.4 Needless to add, the AO will pass a speaking order; a copy of which will be furnished to the petitioner.

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

13. Consequently, the 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

AUGUST 24, 2023

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