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

+ W.P.(C) 6265/2023 & CM APPL. 24608/2023 (STAY)

KUNTE AND DRABU CONSULTANTS PVT

LTD

.....Petitioner

Through: Mr. Percy Pardiwalla, Sr. Adv.
along with Mr. Satyen Sethi,
Mr. Artatrana Panda and Ms.
Gargi Sethee, Advs.

versus

INCOME TAX OFFICER WARD 14(3)

& ORS.

.....Respondents

Through: Mr. Siddhartha Sinha, SSC with
Ms. Anu Priya Nisha Minz,
Adv.

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+ W.P.(C) 6295/2023 & CM APPL. 24726/2023 (STAY)

KUNTE AND DRABU CONSULTANTS

PVT LTD

.....Petitioner

Through: Mr. Percy Pardiwalla, Sr. Adv.
along with Mr. Satyen Sethi,
Mr. Artatrana Panda and Ms.
Gargi Sethee, Advs.

versus

INCOME TAX OFFICER & ORS.

.....Respondents

Through: Mr. Siddhartha Sinha, SSC with
Ms. Anu Priya Nisha Minz,
Adv.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

ORDER

17.01.2025

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1. Learned counsel appearing for the respondents fairly concedes that the reasoning assigned for reassessment and pertaining to **Assessment Year¹ 2019-20** and which forms the subject matter of challenge in these two writ petitions are identical to those which were noticed by the Court in **Kunte and Drabu Consultants Pvt. Ltd. v. Income Tax Officer, Ward 14(3), Delhi and Ors.²** and which pertained to AY 2016-17.

2. In terms of the decision rendered by us in *Kunte and Drabu Consultants*, we had found ourselves unable to countenance the impugned action of reassessment and had come to quash the order and consequential notice issued under Section 148A(d) and Section 148 of the **Income Tax Act, 1961³** respectively and had observed as follows:-

“4. While neither the tabular statement nor the various allegations which form part of that notice give us even a broad indication of how the income which is alleged to have escaped assessment had been computed at INR 37,53,91,921/-, Mr. Pardiwalla, learned senior counsel appearing in support of the writ petition submits that it is perhaps the addition of the credit and debit entries which were reflected in the accounts of Top Most Investment, YK Securities and Glider Investment (the name by which the petitioner was earlier known).

5. As we read the parts of the notice under Section 148A(b) extracted hereinabove, the principal allegation appears to be that Videocon Industries Ltd. had utilised financing and credit facilities granted to it to provide interest free loans to various entities, including Top Most Investment, YK Securities and Glider Investment. It is these allegations which are set out in paragraph 3 (ii) of the Section 148A(b) notice.

6. Responding to the same, the petitioner appears to have asserted that the allegations as levelled were wholly vague and unfounded since although the income which is stated to have escaped assessment had been quantified at INR 37,53,91,921/-, the total

¹ AY

² 2025:DHC:965-DB

³ Act



credit which had been shown in the accounts of Top Most Investment and YK Securities were as per the case of respondents themselves placed at INR 7,57,40,838/- and INR 7,42,38,425/- respectively.

7. On a more fundamental plane, it appears to have been asserted that even if it were assumed that the allegation of Videocon having diverted credit facilities received by it to provide interest free loans were accepted to be correct, there could be no plausible or justifiable reason to hold that income assessable in the hands of Top Most Investment, YK Securities or Glider Investment could be said to have escaped assessment.

8. The various objections which were made were ultimately negated in terms of the final order under Section 148A(d) which came to be passed by the respondents. We deem it apposite to extract paragraph 6 of that order and which was relied upon by and on behalf of the respondents:-

“6. Reply furnished by the assessee has been considered and found not on merit for various reasons. The transactions can be verified from total records and bank statements ,not partial submissions. Further Investigation wing has considered it suspicious as may be not related to business transactions . As per the table in para 2 (iv), it is seen that Debit and Credit Transactions as per Books are shown NIL, however on perusal of the bank statement provided, it is evident that many transactions were carried out in the name of YK Securities Pvt. Ltd. Hence, the fact that there are no transactions with YK Securities Pvt Ltd., is clearly inaccurate.

Further, from the bank statement of ICICI bank account of YK Securities Pvt. Ltd. it is observed that bank branch address is different in different pages of the statement. Therefore, it remains unproved that the copy of documents including bank statements, are genuine. Thus they require deep scrutiny and independent third party verifications are required to check the authenticity of the documents copy of which have been provided by the assessee. As the submissions are self serving, therefore they are not acceptable.

In view of the facts and information available with this office as discussed above, it is established that the assessee has no satisfactory explanation with supporting documents for issue discussed above.

In the light of the facts discussed in foregoing paragraphs,



it is apparent that the assessee has no satisfactory explanation for these transactions to the tune of Rs. 37,53,91,921/-. These deposits in bank account and/or loan and advances are assets within the meaning of provisions of Section 149(1)(b) as it is more than Rs. 50 Lakhs. Accordingly, it is concluded that this is a fit case for issuing notice u/s 148 of the I.T. Act, 1961.”

9. We find ourselves unable to either countenance or sustain the reasoning as adopted by the respondents bearing in mind the following indisputable facts which emerged from the record.

10. The respondents have proceeded to frame a Section 148A(b) notice compendiously in respect of what they alleged was income which had escaped assessment in the hands of Top Most Investment, YK Securities as well as Glider Investment. This notice was so framed despite the admitted position which emerges from the record, namely, of the Scheme of Amalgamation of Top Most Investment and YK Securities with the petitioner having come to be approved on 27 February 2020.

11. The aforesaid Scheme in terms of the appointed date stipulated therein was to come into effect from 01 April 2018 and thus the Scheme itself coming into effect from AY 2019-20. While it could have been open for the respondents to place the petitioner on notice to respond on the basis of it being the successor in interest of Top Most Investment or YK Securities, the notice under Section 148A(b) at least fails to do so. However, we do not propose to hold against the respondents solely on this technicality.

12. We find the challenge raised by Mr. Pardiwalla, namely, of the alleged income not being taxable in the hands of either Top Most Investment, YK Securities or Glider Investment to be more potent. This since the solitary allegation which is levelled is a diversion of funds by Videocon to YK Securities, Top Most Investment and Glider Investment. Even if it were assumed to be correct that the Videocon had diverted funds and credit facilities provided by banks and financial institutions to third party entities, it would have at best and perhaps led to the deletion of any claims towards interest paid that may have been made by that entity. We fail to comprehend how such a diversion of funds could have led to the formation of opinion that income taxable in the hands of Top Most Investment, YK Securities and Glider Investment could have escaped assessment. The notice under Section 148A(b) dated 31 March 2023 and the order under Section 148A(d) dated 20 April 2023 fails to provide any clue as to how such an opinion could have been formed even on a prima facie basis.”



3. In light of the admitted position of the reasoning assigned for reassessment in these petitions being identical to those for AY 2016-17, we find no reason to take a view different from what was rendered by us in *Kunte and Drabu Consultants*. Accordingly and for all the aforesaid reasons, we find ourselves unable to sustain the impugned notice of reassessment.

4. We accordingly allow these two writ petitions and quash the impugned order under Section 148A(d) dated 18 April 2023 and consequential notice under Section 148 of even date.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.

JANUARY 17, 2025/nd