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

+ **W.P.(C) 12733/2022 & CM APPLs.38702-38703/2022**

AMBIKA KAPUR

.....Petitioner

Through: Mr.Gaurav Jain, Advocate with
Ms.Akshita Goyal, Mr.Shubham
Gupta and Mr.Aditya Goyal,
Advocate.

versus

**ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL
CIRCLE INT TAX 2(1)(2) NEW DELHI & ANR.Respondents**

Through: Mr.Sanjay Kumar, Advocate with
Ms.Easha Kadian, Advocate.

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Date of Decision: 5th September, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, J (Oral):

1. Present writ petition has been filed challenging the order dated 21st April, 2022 passed under Section 148A(d) of the Income Tax Act, 1961 ('the Act') along with notice dated 21st April, 2022 issued under Section 148 of the Act for the assessment year 2018-19 and proceedings initiated pursuant thereto.

2. Learned counsel for the Petitioner states that the Respondent initiated the proceedings under Section 148A of the Act on the basis of an incorrect assumption of fact that the petitioner had not filed her return of income and



hence income to the tune of Rs.30,57,78,545/- in relation to financial transactions entered by the Petitioner during the year, had escaped assessment.

3. Learned counsel for the Petitioner states that the Petitioner filed a detailed reply dated 14th April, 2022, wherein the Petitioner explained to the Respondent that contrary to the allegations, the Petitioner had filed return of income for the relevant assessment year and further disclosed all the financial transactions alleged to have escaped assessment in the said return of income, except for one alleged transaction amounting to Rs.3,79,08,575/- of which the Petitioner had no knowledge and further requested the Respondent to provide details about the said transaction.

4. Issue notice. Mr.Sanjay Kumar, learned counsel for the respondents-revenue, accepts notice. He states that the petitioner had not provided sale/purchase deed to the Assessing Officer and had not explained the transaction qua the amount of Rs.3,79,08,575/-.

5. In rejoinder, learned counsel for the petitioner states that the sale/purchase deed was never asked for by the Assessing Officer. He states that the petitioner is willing to supply the same, if so directed by this Court. He further states that the 'statement of reportable account under Section 285BA(1) of the Act is not a transaction. He submits that Section 285BA(1) of the Act casts a duty/obligation on the financial institution or bank to forward the details with regard to the high value transactions to the Income Tax Department.

6. Having heard learned counsel for the parties, this Court finds that the primary allegation in the notice issued under Section 148A(b) of the Act is that the petitioner has not filed ITR for the assessment year 2018-19.



However, as the said fact has been rebutted by the petitioner, the Assessing Officer should have given a finding with regard to this fact at least in the order passed under Section 148A(d) of the Act. Further, as it is the petitioner's case that all the high value transactions have been reported by the petitioner in its return of income and is willing to place on record the sale/purchase deed before the Assessing Officer, this Court sets aside the impugned order passed under Section 148A(d) of the Act as well as the notice issued under Section 148 and remands the matter back to the Assessing Officer for a fresh decision in accordance with law. It shall be open to the Assessing Officer to issue a supplementary notice explaining in detail the transactions, which were allegedly not reported by the petitioner totalling to Rs.3,79,08,575/-, within two weeks. The petitioner is also directed to file the sale/purchase deed as well as a supplementary reply, if required, with the Assessing Officer within four weeks. The Assessing Officer is directed to pass a fresh order under Section 148A(d) of the Act within four weeks thereafter in accordance with law.

7. With the aforesaid directions, the present writ petition along with applications stand disposed of. The rights and contentions of all the parties are left open.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 5, 2022

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