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

+ W.P.(C) 13654/2022 & C.M.No.41637/2022

ZELOS DEVELOPERS PRIVATE LIMITED Petitioner

Through: Mr.Mayank Nagi with Mr.Pulkit
Verma, Advocates.

versus

**ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 25(1)
DELHI** Respondent

Through: Mr.Sunil Agarwal, Sr.Standing
Counsel for the Revenue with
Mr.Tushar Gupta and Mr.Utkarsh
Tiwari, Advocates.

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Date of Decision: 21st 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 passed under Section 148A(d) of the Income Tax Act, 1961 ('the Act') as well as the consequential notice issued under Section 148 of the Act, both dated 30th July, 2022, for the Assessment Year 2016-17.

2. Learned counsel for the Petitioner states that reassessment was done on the allegation that sale of immovable property worth Rs.13,65,00,000/- had escaped assessment. He states that the basis of the allegations are that



the purchaser's PAN and Sale deeds were not on record as well as the stamp duty valuation of the transaction was not on record.

3. Learned counsel for the Petitioner states that the allegations against the Petitioner are factually incorrect. He states that the Petitioner / seller as well as the Purchaser i.e. Sh. Narinder Singh Dhingra have valid PANs and the same were also on record, *interalia*, in the form of the Annual Tax Statement under Section 203AA in Form 26AS. He states that income tax return for the Assessment Year 2016-17 has been filed on 17th October, 2016 where "Revenue from Operations" have been declared under three heads – (i) Sale of Property Rights; (ii) Project Revenue; and (iii) Consultancy Services and total income has been returned at a profit of Rs.2,97,20,825.16/-.

4. Learned counsel for the Petitioner states that vide notice dated 14th March, 2018 issued under Section 133(6) of the Act, the Petitioner was directed to file details relating to the alleged transaction. He states that vide reply dated 26th March, 2018, the Petitioner filed a detailed note on its business activities; audited financial statements, tax audit report, return of income and computation of total income; the transaction ledger, sales account along with the registered sale deed. He points out that stamp duty valuation of the property in question is duly stated in the registered sale deed. He states that, therefore, it is clear that the Revenue had knowledge of material relating to the transaction involving the sale of 24 units amounting to Rs.13,65,00,000/- . He points out that after examination of the material placed on record by the Petitioner, the proceeding under Section 133(6) of the Act was dropped.



5. Issue notice. Mr.Sunil Agarwal, learned senior standing counsel accepts notice on behalf of the Respondent-Revenue. He, on instructions, states that though the Petitioner in its response to the notice issued under Section 148A(b) of the Act had filed a detailed reply, yet annexures attached thereto were not placed on record. He further states that he has no objection if the impugned order and notice are set aside and the matter is remanded back to the Assessing Officer for a fresh decision.

6. Keeping in view the aforesaid, the impugned order passed under Section 148A(d) of Act as well as the notice issued under Section 148 of the Act, both dated 30th July, 2022 are set aside and the Petitioner is directed to re-supply its reply to the notice issued under Section 148A(b) of the Act alongwith all annexures, to the Assessing Officer within a week. The Assessing Officer shall, thereafter, pass an order under Section 148A(d) of the Act in accordance with law within six weeks. It is clarified that the Assessing Officer shall be at liberty to seek any further clarification/information from the Petitioner.

7. With the aforesaid directions, present writ petition along with pending application stands disposed of.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 21, 2022
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