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

\+ W.P.(C) 2295/2022, CM APPLs. 6591/2022, 6603/2022, 9429/2022 & 9430/2022

NAMAN MADAN ..... Petitioner

Through: Mr. Nagesh Behl and Mr. Chetan Manchanda, Advocates.

versus

DCIT CENTRAL CIRCLE 30 DELHI & ANR. ..... Respondents

Through: Mr. Abhishek Maratha, Sr. Standing Counsel for Revenue.

% Date of Decision: 12th October, 2022

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

CM APPL. 6591/2022

Exemption allowed, subject to all just exceptions.

Accordingly, this application is disposed of.

W.P.(C) 2295/2022, CM APPLs. 6603/2022, 9429/2022 & 9430/2022

1. Present petition has been filed impugning notices all dated 22nd December, 2020, issued under Section 153C of the Income Tax Act, 1961, (the 'Act') for the Assessment Years ('AY') 2011-12 to 2017-18 as void. The petitioner also seeks a declaration that the impugned notice dated 23rd December, 2020, under Section 143(2) of the Act for the AY 2017-18 is

void and time barred.

2. The impugned notices have been issued pursuant to a search and seizure operation conducted on 22nd October, 2016, under Section 132 of the Act in the case of 'Sukhija Group'. It is stated that on 03rd October, 2017, notices under Section 153A of the Act were issued to the petitioner's father and mother respectively. Subsequently, on 20th June, 2020, respondent no.1 recorded satisfaction under Section 153C(1) of the Act to the effect that the information contained in the documents and books found and seized during the course of search on the parents relates to the petitioner herein. Thereafter, on 22nd December, 2020, respondent no.2, the Assessing Officer of the petitioner, issued the impugned notices under Section 153C of the Act for the AY 2011-12 to 2017-18 and impugned notice dated 23rd December, 2020, under Section 143(2) of the Act for the AY 2017-18.

3. It is stated that the cases of the petitioner have since been transferred from respondent no.2 to respondent no.1. It is further stated that on 21st January, 2021, petitioner filed its Return of Income ('ROI') for AY 2011-12 to 2017-18 in response to the notices issued under 153C of the Act.

4. It is stated in the petition that the notice issued under Section 143(2) for the AY 2017-18 is void as being time barred.

5. It is stated in the petition that the notices issued under Section 153C of the Act are void since the same have been issued in pursuance to the directions issued by Commissioner of Income Tax (Appeals) ['CIT(A)'] in the course of proceedings arising from the assessments issued against the mother of the petitioner and are therefore not based on the satisfaction of the Assessing Officer ('AO'). It is further stated that the directions issued by the CIT(A) was only with respect to AY 2016-17 and 2017-18, the seized

material relates to AY 2016-17 and 2017-18 and therefore, the notices issued for AY 2011-12 to 2015-16 are without any basis. It is also stated that since the petitioner was a minor during AY 2011-12 to 2014-15, no notice could have been issued for the said assessment years.

6. The present petition was listed before this Court for the first time on 07th February, 2022, and in this date the counsel for the respondent, revenue apprised the Court that the assessment orders for AY 2011-12 to 2017-18 have been finalised. The respondent has placed on record the said assessment orders dated 31st January, 2022, a perusal whereof shows that for the AY 2011-12 to 2015-16 the assessment orders are 'nil'. In view of this fact, the legal objections raised in the petition with respect to the notices for the said assessment years being void on account of absence of directions of the CIT(A) and the issue of minority of the petitioner do not survive for consideration.

7. Demand has been assessed against the petitioner in the assessment orders for AY 2016-17 and AY 2017-18 under Section 153C of the Act. The said assessment orders are not a subject matter of the present writ petition. The challenge to the assessment orders would necessarily require examination of factual controversy. The petitioner has the remedy of filing an appeal against the said assessment orders. In this respect the judgment of Supreme Court in ***Commissioner of Income Tax vs. Chhabil Dass Agarwal, [2014] 1 SCC 603*** is apposite which reads as under:-

> *"16. In the instant case, the Act provides complete machinery for the assessment/reassessment of tax, imposition of penalty and for obtaining relief in respect of any improper orders passed by the Revenue Authorities, and the assessee could not*

be permitted to abandon that machinery and to invoke the jurisdiction of the High Court under Article 226 of the Constitution when he had adequate remedy open to him by an appeal to the Commissioner of Income Tax (Appeals)..."

8. We have not examined the merits of the assessment orders, the rights and contentions of the petitioner are left open to be determined in the appellate proceedings in accordance with law.

9. The present writ petition along with the pending applications stand disposed of.

MANMEET PRITAM SINGH ARORA, J

MANMOHAN, J

OCTOBER 12, 2022
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