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

\+ W.P.(C) 14787/2022 & CM APPLs. 45442-43/2022

MRS SANGEETA ARORA ..... Petitioner

Through: Mr. Abhishek Dhingra, Advocate.

versus

INCOME TAX OFFICER WARD 35 (1) ..... Respondent

Through: Mr. Sanjay Kumar, Senior Standing Counsel for Revenue.

% Date of Decision: 19th 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 APPLs. 45443/2022 (for exemption)

Exemption allowed, subject to just exceptions.

Accordingly, the present application stands disposed of.

W.P.(C) 14787/2022 & CM APPLs. 45442/2022 (for stay)

1. Present writ petition has been filed seeking a direction to quash the reassessment proceedings for Assessment Year (the 'AY') 2018-19.

2. A perusal of the record shows that, a show cause notice under Section

148A(b) of the Income Tax Act, 1961, (the ‘Act’) was issued to the Assessee as the Assessing Officer (‘AO’) had received information from Directorate of Investigation, Delhi. The information suggests that a perusal of the GST Return filed by a third party M/s Nandi Traders for the Financial Year (‘FY’) 2017-18 revealed that the said third party has recorded sale of Rs. 237.16 crores and purchase of Rs. 34 Lakhs, which was not shown in the Income Tax Return (‘ITR’) of the said M/s Nandi Traders. Further, the information also states that M/s Nandi Traders has issued bogus Input Tax Credit (‘ITC’) on fake sale bills and the same was forwarded to beneficiary entities. It is stated therein that the Assessee, Mrs. Sangeeta Arora, is one of the beneficiaries of the said bogus transaction and she has entered into transactions to the tune of Rs. 6,62,23,609/- with M/s Nandi Traders.

3. Learned counsel for the Petitioner states that the Assessee has not transacted with M/s Nandi Traders and her Permanent Account Number (PAN) has been misused to register the impugned GST number. He states that the Assessee has reported this fraud and lodged the complaint before the statutory authorities including the GST Officer and the police authorities. He states that the Petitioner has taken steps to report the fraud to the GST Officer and that the GST Number stands cancelled. He states that the Petitioner has also filed an application under Section 156(3) of the Criminal Procedure Code, 1973, (Cr. P.C.) before the competent Court and the Court has directed the concerned police station to file the Action Taken Report (ATR). He states that the Assessee believes that her PAN has been used to obtain the GST Number fraudulently and it was used under the name of Superior International, a firm with which the Petitioner has no concern. He states that the particulars of the address furnished with the GST Number is

with respect to a premises which was tenanted by the Assessee many years ago and she has since vacated the said premises in 2013.

4. He further states that the proof of Assessee's lack of involvement with the alleged M/s Nandi Traders is that the alleged transactions are not reflected in the bank statement of the Assessee. He states that the Assessee has requested the concerned police station to make enquiries with respect to the bank account used by the firm Superior International which is alleged to have transacted with M/s Nandi Traders.

5. He states that the Assessee herself is a victim of fraud and she has no concern with M/s Nandi Traders or Superior International. He states that the present reassessment proceedings initiated by the AO believing the aforesaid fraudulent transactions will cause grave prejudice to the Petitioner.

6. We have perused the documents on record. The averments raised by the Petitioner give rise to factual pleas and the AO is competent to determine the veracity of the pleas raised by the Petitioner, which include the misuse of her PAN as well as the use of an illegal bank account.

7. The Petitioner's plea that the GST Number, which is registered at the premises in Libaspur, Delhi is not in her control or possession and the transactions under scrutiny which were undertaken by Superior International and M/s Nandi Traders were carried out in a bank account which is not operated by the Petitioner, are all factual pleas which will be determined by the AO during the assessment proceedings after examine the evidence. We are certain that during the reassessment proceedings the AO will duly consider and adjudicate all the pleas of the Petitioner, including the plea of the fraud in obtaining the GST Number and the bank account.

8. The petition is disposed of with the liberty to the Petitioner to raise all

her pleas and contentions before the Assessing Officer. We make it clear that we have not examined the merits of the controversy. The rights and contentions all parties are left open.

MANMEET PRITAM SINGH ARORA, J

MANMOHAN, J

OCTOBER 19, 2022
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