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

\+ W.P.(C) 7218/2024 & CM APPL. 30092/2024 (Stay)

GSR INFOCOM PVT LTD. ..... Petitioner

Through: Ms. Surbhi Chandra, Adv.

versus

INCOME TAX OFFICER WARD 10(1) DELHI & ORS. ..... Respondents

Through: Mr. Abhishek Maratha, SSC along with Mr. Parth Semwal, Mr. Apoorv Agarwal, JSCs, Ms. Nupur Sharma, Mr. Manav Goyal, Mr. Gaurav Singh, Ms. Divya Verma & Mr. Bhanukaran Singh Jodha, Advs. Ms. Sunanda Shukla, Panel Counsel along with Ms. Saakshi Yadav, Adv. for UOI.

**CORAM:**
**HON'BLE MR. JUSTICE YASHWANT VARMA**
**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**

**O R D E R**

% **20.05.2024**

**CM APPL. 30093/2024 (Exemption)**

Allowed, subject to all just exceptions.

Application is disposed of.

**W.P.(C) 7218/2024 & CM APPL. 30092/2024 (Stay)**

1. Notice. Since the respondents are duly represented by Mr. Maratha, let a reply be filed within a period of three weeks from today. The petitioner shall have two weeks therefrom to file a rejoinder affidavit.

2. Prima facie, and for the purposes of according interim protection, we find that in the notice under Section 148A(b) of the Income Tax Act, 1961, the following allegations came to be laid against the writ petitioner:-

> "As per information in possession of the department, asssessee has made transaction with the shell entities during the relevant year. Amount of transaction and other details are given in following table. Name of the shell entities as discovered during the investigation is mentioned in the information copy of which is enclosed for your reference.

| **Sr. No.** | **Information FY** | **Information Source Description** | **Information Description** | **Information Value** |
|---|---|---|---|---|
| 1 | 2019-20 | Search action u/s 132 on IT Act 1961 in the case of M/s Jonson Watch Group and Kapoor Watch Group. | Sale and purchase from bogus entity | 44,19,875 |
| **Grand Total** | | | | 44,19,875 |

> In view of the above, opportunity is given to you to submit your reply on the point that why your case should not be reopened as per provision u/s 148 of the Act."

3. On responding to the same, the petitioner called upon the respondents to provide details pertaining to the alleged escaped income quantified at INR 44,19,875/-.

4. Despite the aforesaid request being made, no further information was proffered and the respondents proceeded to pass an order under Section 148 A(d) recording as follows:-

> "2.1 Assessee has filed ITR for the relevant year at total income of Rs.27,86,340/- on 04.11.2020. Assessment has not been made in this case earlier u/s 143(3)/144/147 of the Act. A search action u/s 132 of lncome Tax Act, 1961 was carried out in the case of M/s Johnson Watch Group, M/s Kapoor Watch Group and others on 31.10.2022. During the course of search proceedings and post search proceedings various incriminating evidences in the form of digital and hard copy

> were gathered and analysed and also statement of various persons recorded on oath. During the search proceedings it is found that there were many shell entities from whom assessee have taken accommodation entries.
>
> 2.2 Further, various entities have taken accommodation entries in lieu of bogus sales and purchases which are non-genuine. On analysis of GST data of these shell entities, it is noticed that, various beneficiaries have booked non-genuine/bogus purchases and sales in their books of accounts which are totally unconnected to each other. Such arrangement was made only to provide legitimacy for accommodation entries and also for input GST tax credit.
>
> 3. As the information was self-sufficient, it was considered that further enquiries u/s 148A(a) of the Act were not required. Therefore, notice u/s 148A(b) of the Act with DIN ITBA/AST/F/148A(SCN)/2023-24/1062394259(1) dated 11.03.2024 was issued and opportunity was provided to the assessee. Underlying information was also sent to the assessee along with this notice. The said notice was sent on available e-mails and addresses requiring it to furnish the relevant details electronically along with supporting documentary evidence with respect to the transactions as cited above by 20.03.2024. Vide the above said notice, the assessee was asked as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in this case for A.Y.2020-21."

5. Prima facie, we find that the notice fails to incorporate adequate details in support of the allegation which stood levelled. Matter requires consideration.

6. We, consequently, provide that while it shall be open for the respondents to proceed further with the impugned notice, any orders adverse to the writ petitioner, if passed, shall not be given effect to till the next date of listing.

7. Let the writ petition be called again on 05.08.2024.

**YASHWANT VARMA, J.**

**PURUSHAINDRA KUMAR KAURAV, J.**

**MAY 20, 2024/**RW