

Rajdhani Educational Charitable Trust vs Income Tax Officer Ward Exemp 2(4) on 13 April, 2023

Author: Rajiv Shakdher

Bench: Rajiv Shakdher

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 4659/2023

RAJDHANI EDUCATIONAL CHARITABLE TRUST

Through: Mr Kapil Goel, Adv

versus

INCOME TAX OFFICER WARD EXEMP 2(4) Respondent

Through: Mr Shailendera Singh, Sr. Standi

Counsel with Ms Dacchita Shahi a

Mr Akash Saxena, Advocates.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MS JUSTICE TARA VITASTA GANJU

ORDER

% 13.04.2023 [Physical Hearing/Hybrid Hearing (as per request)]

1. Allowed, subject to the petitioner filing legible copies of the annexures, at least three days before the next date of hearing. W.P.(C) 4659/2023 and CM APPL. 17933/2023 [Application filed on behalf of the petitioner seeking interim relief]

2. This writ petition concerns Assessment Year (AY) 2016-17.

3. The principal allegation against the petitioner is that the purchase price of the subject immovable property included a cash component. It is alleged that the said amount was paid to Omaxe Ltd. 3.1 The amount which is paid in cash, according to the respondent/revenue, W.P.(C) 4659/2023 page 1 of 3 was Rs.2,80,25,900/-.

4. This allegation against the petitioner is levelled based on the information and material, allegedly, obtained by the respondent/revenue during a search action carried out against the Omaxe group.

5. The order dated 31.03.2023 passed under Section 148A(d) of the Income Tax Act, 1961 [in short, "the Act"] seems to suggest that the respondent/revenue has obtained statements of some employees. 5.1 A perusal of the order passed under Section 148A(d) of the Act shows that there is a reference to one, Mr Suren Goel, Project Head, presumably, a person employed with Omaxe Ltd.

5.2 It appears that the information with regard to the cash transaction entered into between the petitioner and Omaxe Ltd. is based on inputs given by Mr Suren Goel.

6. Mr Kapil Goel, who appears on behalf of the petitioner, says that if any input was received concerning the petitioner from Mr Suren Goel, by way of a statement or otherwise, that information has not been supplied to the petitioner.

6.1 Furthermore, Mr Goel says that none of the extracts of the statements of the employees of Omaxe Ltd. which have been furnished, are suggestive of the fact that the petitioner has paid cash to Omaxe Ltd. for purchase of the subject property.

7. The matter requires further examination.

8. Issue notice.

8.1 Mr Shailendera Singh, senior standing counsel, accepts notice on behalf of the respondent/revenue.

W.P.(C) 4659/2023 page 2 of 3

9. List the matter on 06.10.2023.

10. Although we have issued notice in the matter, the Assessing Officer (AO) will be at liberty to proceed with the reassessment proceedings. However, if an order is passed which is adverse to the interest of the petitioner, the same shall not be given effect to till further directions of the court.

10.1 It is made clear that before the AO proceeds further, he will furnish the requisite material/information concerning the petitioner, which, according to him, demonstrates that cash, as alleged, was paid by the petitioner to Omaxe Ltd.

11. Parties will act based on the digitally signed copy of the order.

RAJIV

TARA VITAST

APRIL 13, 2023 / tr

[Click here to check corrig](#)

W.P. (C) 4659/2023

