IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 5006 of 2016

Date of Decision: 16.3.2016

Arvind Tiku

....Petitioner.

Versus

Income Tax Officer, Ward No.1(1), Gurgaon and others

...Respondents.

1. Whether the Reporters of the local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE RAJ RAHUL GARG.

PRESENT: Mr. Deepak Chopra, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. This order shall dispose of a bunch of six petitions bearing CWP Nos. 4961, 4969, 4993, 5006, 5017 and 5019 of 2016 as according to learned counsel for the petitioner, the questions of law and facts involved therein are identical. For brevity, the facts are being extracted from CWP No. 5006 of 2016.

2. In CWP No. 5006 of 2016 filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the notice dated 30.3.2015 (Annexure P-1) issued by respondent No.1 under Section 148 of the Income Tax Act, 1961 (in short "the Act") for the assessment year 2004-05. Further, a writ of prohibition has been sought restraining the

respondents from taking any further action in pursuance to the notice dated 30.3.2015 (Annexure P-1).

3. The petitioner was issued a notice dated 30.3.2015 (Annexure P-1) under Section 148 of the Act for the assessment year 2004-05 for initiating assessment proceedings. He sent a letter dated 23.4.2015 (Annexure P-2) to respondent No.1 stating that he is a Non-Resident for the purpose of Act and there was no income chargeable to tax which could be said to have escaped assessment. He also filed details (Annexure P-3) regarding his stay in India for the past years. Another letter dated 29.4.2015 (Annexure P-4) was filed by the petitioner before respondent No.1 giving the details of his stay in India along with passport. In continuation to the letter, Annexure P-4, the petitioner filed another letter dated 11.5.2015 (Annexure P-5) making submissions on Section 6 of the Act. The file of the petitioner was transferred to respondent No.2 and accordingly a fresh notice dated 24.9.2015 (Annexure P-6) under Section 143(2) of the Act was issued to the petitioner. The petitioner filed reply dated 15.10.2015 (Annexure P-7) to the said notice. Thereafter, the notice dated 13.1.2016 (Annexure P-8) was issued under Section 142(1) of the Act by respondent No.2 to which the petitioner filed reply dated 1.2.2016 (Annexure P-9). However, no response has been received till date. Hence, the present writ petitions.

4. Learned counsel for the petitioner submitted that the petitioner filed reply dated 1.2.2016 (Annexure P-9) to the notice dated 13.1.2016 (Annexure P-8) issued under Section 142(1) of the Act before respondent No.2 which is pending and no action has so far been taken thereon.

5. After hearing learned counsel for the petitioner, the present

writ petitions are disposed of by directing respondent No.2 to take a decision on the reply dated 1.2.2016 (Annexure P-9), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of one month from the date of receipt of a certified copy of this order.

(AJAY KUMAR MITTAL)
JUDGE

March 16, 2016 **(RAJ RAHUL GARG)**
gbs **JUDGE**