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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6730/2018**

CHANDER KANT SINGHAL Petitioner
Through: Mr. Amol Sinha, Mr. Naveen Kumar,
Mr. Ashvini Kumar, Advocates
versus

ITO, WARD-41 (4), NEW DELHI Respondent
Through: Mr. Ashok K. Manchanda, Senior
Standing Counsel for ITD

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **10.12.2018**

The petitioner is aggrieved by the order attaching his account pursuant to notice under Section 226(3) of the Income Tax Act, 1961 (hereinafter referred to as the 'Act'). The Revenue appears to have taken out re-assessment under Section 147/148 on the basis of the information received and concluded the assessment for AY 2009-10.

At the time of issuing notice, this court had recorded as follows:

"Issue notice. Sh. Ashok. K. Manchanda, Advocate accepts notice.

The petitioner's grievance is that the notice to reopen assessment under Sections 147/148 of the Income Tax Act, 1961 [hereafter "the 1961 Act"] for AY 2009-10 issued by the respondent on 27.12.2013 was sent to the wrong address. Reliance is placed upon the copy of the Income Tax Return (ITR) for Assessment Year (AY) 2009-10 filed on 31.08.2009. The respondent's counsel urges that the AO issued notice based upon information

received from the bank and that the information with the bank did not anywhere disclose that the assessee possessed a PAN registration.

A copy of the ITR for the concerned assessment year clarifies that the petitioner's PAN existed as on 30.08.2009. The address disclosed in that return is at variance with the address at which the reopening notice was issued. Prima facie, therefore, the assessment order and all further proceedings to enforce the demand are illegal. The respondents are restrained from taking any coercive action or in any manner enforcing any demand arising from such completed assessment proceedings during the pendency of these proceedings.

List on 05.09.2018."

The Revenue in its counter affidavit submits that upon receipt of 'No Pan transactions' reported by banks and other agencies, it was discerned that the petitioner's name appeared at S.No.56. The transactions in the Financial Year 2008-09, discloses that there were cash deposits to the tune of Rs. 2308239/-. Acting upon this information the Revenue claims that information was sought from the bank under Section 133(6), after which re-assessment proceedings were initiated. It is submitted that since the Assessee did not participate in the reassessment proceedings, the taxable income was determined after adding the amount and a demand of Rs.1464641/- was made. It is stated that consequently an order under Section 226(3) of the Act, attaching petitioner's bank accounts were issued.

The facts on record disclose that the petitioner is a regular income tax assessee subjected to the jurisdiction of ITO, Ward No.25(2) [subsequently reorganised to ITO Ward No.41(4)]. In the

present case, even if the petitioner's bank accounts were not linked with the Permanent Account Number issued by the Income Tax Department, the least the Revenue ought to have done on receipt of information was to proceed to issue reassessment notice by searching its own data base. The PAN of the petitioner for the relevant year i.e. AY 2009-10 was same and continued to be AUZPS0932N, there is no change in that. Petitioner has filed copies of the returns for all the concerned years including Assessment Year 2016-17, which show the same PAN. Given these circumstances, the respondent appears to have mechanically issued notice entirely based upon receipt of information supplied by the bank and without caring to check further.

In somewhat similar circumstances, in *Veena Devi Karnani versus Income Tax Officer* [W.P.(C) No. 7450/2018 decided on 14.09.2018] this court had – where re-assessment notice was issued solely based upon information provided by the bank, and where notice was not received by the assessee, who could therefore, not participate in the proceedings and had to face proceedings like in this case observed as follows:

“7 The narrative of facts and the behaviour of the AO in this case is disturbing to say the least. The AO appears to have completely and mechanically proceeded on the information supplied to him by the bank without caring to address himself to the correct position in law and deduced to ensure that the reassessment notice (which is a matter of moment as far as the assessee is concerned) was issued properly and served at the correct address in the manner known to law. The assessee has relied upon a screenshot of the

PAN database at the stage when the petition was filed to say that the Revenue always had the wherewithal to access the correct address, PAN number and all other relevant details including the email ID as well as the bank account. The omissions of the AO deserves, therefore, to be not only adversely noticed but appropriately reflected in his or her confidential reports and appropriate proceedings initiated by the Revenue authorities, which is so directed. The concerned Commissioner, Principal Commissioner or other superior authorities, as the case may be, are directed to file a report in this regard within eight weeks from today.

8 Subject to the above observations, the writ petition is allowed, the impugned reassessment notice as well as the order under Section 144/148, and the consequential action i.e. attachment of the assessee's accounts are hereby quashed."

In the present case too, this court is of the opinion that the outcome has to be no different. Consequently, the impugned reassessment order and the order of attachment dated 24.04.2018, issued to the HDFC Bank Limited, in respect of FDRs and other amounts lying in it are hereby quashed.

The writ petition is allowed in the aforesaid terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

DECEMBER 10, 2018

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