23.05.2022
ct no. 6
Sl. 5
pk/ap

WPA 9195 of 2022

Somnath Dealtrade Private Limited
Versus
Union of India and others

Mr. Nirmalya Dasgupta,
Mr. Jitendra Patnaik.
...for the petitioner.

Mrs. Smita Das De.
... for the respondents.

The petitioner assails a notice dated 13th April, 2022 ('the impugned notice') under Section 148A clause (d) of the Income Tax Act, 1961 ('the Act').

It is alleged that in issuing the impugned notice, the respondent authorities have acted in violation of the principles of natural justice. It is further alleged that the respondent authorities have not dealt with the Reply of the petitioner dated 9th April, 2022. It is also alleged that no personal hearing was afforded to the petitioner before the impugned notice was issued.

On behalf of the respondent Revenue Authorities, it is submitted that despite two prior notices, the petitioner had deliberately and intentionally chosen not to participate in the proceeding. Moreover, it is alleged that the respondent authorities have dealt with the Reply dated 9th April, 2022 filed by the petitioner. In any event, at the stage of re-assessment of the proceeding, the petitioner would have an ample and adequate opportunity to contest the same. Hence, there is no question of interfering with the impugned notice.

I find from the impugned notice that it is alleged by the respondent authorities that in respect of Assessment Year 2018-2019, the respondent authorities had come to learn that the petitioner was a beneficiary of a transaction to the extent of Rs.36,00,000/- from one M/s. Winsome Commotrade Pvt. Ltd. Accordingly, a notice dated 22nd March, 2022 under Sections 148A/148B of the Act was issued to the petitioner. By a letter dated 29th March, 2022, the petitioner had sought an adjournment. Thus, at the request of the petitioner, a further opportunity was granted by the respondent authorities on 5th April, 2022.

I find from the impugned notice that the Reply of the petitioner has been taken into consideration. The impugned notice also records that the books of accounts and some other details furnished by the petitioner were taken into consideration. The impugned notice also finds that on a perusal of the documents, it appears that there was no taxable income as per the copy of the Income Tax Return filed by the petitioner. The impugned notice records that in respect of the modus operandi, business, genuineness of the transaction and the creditworthiness of M/s. Winsome Commotrade Pvt. Ltd., there were lack of full-proof documents submitted by the petitioner in respect of the said entity. Accordingly, there was a need for cross-verification.

I am also of the view that, there is no scope of interference with the impugned notice on the ground of violation of the principles of natural justice. The petitioner was issued two separate notices i.e. 22 March, 2022 and 5 April, 2022. The Reply of the petitioner has been dealt with in the impugned notice. The impugned notice records reasons. The impugned notice also records that due to lack of full proof documents submitted by the petitioner the modus operandi, the genuineness of transactions and the credit worthiness of M/s. Winsome Commotrade Pvt. Ltd. could not be substantiated.

In view of the aforesaid, I find that there is no illegality nor infirmity in the impugned notice. I also find that the decision of *Bishal Aswing Patel Vs. Assistant Commissioner of Income Tax (2022) SCCOnLine 366* is distinguishable. Similarly, the decision reported in *Diya Capital Pvt. Ltd. Vs. Assistant Commissioner* unreported decision in *WP 7406 of 2022* of the High Court at Delhi dated 12 May, 2022 is also inapposite in the facts of the instant case. In the said decision, the Hon'ble Division Bench had arrived at a conclusive finding that the petitioner had not been given reasonable time to file a Reply.

Accordingly, I am of the view that there is no scope of interfering with the impugned notice. The petitioner can always by participating in the re-assessment proceeding have the opportunity of taking all points available to the petitioner in accordance with law.

In my view, there are no grounds whatsoever to interfere with the impugned notice.

Accordingly, W.P.A. No. 9195 of 2022 stands dismissed.

However, there shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the Official Website of this Court.

(Ravi Krishan Kapur, J.)