IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

116 **CWP-2857-2022(O&M)**
Decided on :24.02.2022

Ashoka University **....Petitioner**

VS

Assistant Commissioner of Income Tax and others **....Respondents**

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Puneet Bali, Senior Advocate with
Mr. Surjeet Bhadu, Advocate
for the petitioner.

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AJAY TEWARI, J.(Oral)
CM-2452-CWP-2022

1. This application has been filed for placing on record certain documents mentioned in the application.

2. For the reasons recorded in the application, the same is allowed and documents are taken on record.

Main case

3. By this petition the petitioner has challenged the rejection of its objections to a notice for income escaping assessment.

4. The case of the petitioner is that it is a university set up by an entity calling International Foundation for Research and Education (for short 'IFRE'). As per the petitioner, this Foundation is a special purpose vehicle which was established by a group of philanthropic persons to set up this university. The Foundation has no independent income, but the arrangement is that the Foundation takes care of all the expenditure of the university and all the income which the university generates is also credited to the account of the Foundation.

5. That Foundation has filed its returns and has been assessed. However, despite this fact, the petitioner-university has been issued the notices and the objections have been rejected in a very mechanical manner by merely observing that the assessment of the Foundation is of no relevance and the income and expenditure of the university as an individual entity has to be seen. Moreover, the reason taken is that the University has never filed its returns. Learned Senior Counsel appearing for the petitioner states that the petitioner is only desirous of showing that no income which it has generated has escaped assessment and for that purpose, had placed on record the entire assessment of the Foundation and if the respondent had just cared to examine the assessment record of the Foundation, this fact would have been cleared. In our opinion, the plea that all the facets brought forward by the petitioner and all the material put forward should have been considered while deciding the objection are well-merited.

6. Notice of motion.

7. Mr. Denesh Goyal, Senior Standing Counsel appears and accepts notice on behalf of the respondents.

8. Learned Senior Standing Counsel for the respondents states that he does not even have a copy of the petition and moreover, it is trite law that a writ petition would not be maintainable in such circumstances. In our opinion, the nature of order that we propose to pass would not be an infraction of the law laid down by the Supreme Court. We have considered the issue and set aside the impugned orders (Annexures P-5 to P-8) with a direction to the respondent No.1 to redecide the objections

filed by the petitioner after considering all the points raised therein.

9. For this purpose, parties through counsel are directed to appear before respondent No.1 on 2.3.2022 and on any other date when he requires their presence. He is directed to decide the issue on or before 31.03.2022 and till then the further proceedings on the notice shall remain stayed.

10. Petition stands disposed of with above-said observations.

11. Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(PANKAJ JAIN)
JUDGE

24.02.2022
anuradha

Whether speaking/reasoned	-	Yes
Whether reportable	-	No