**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-13837-2021
Date of decision: 03.02.2022**

Gaurav Mahna .... Petitioner

Versus

Union of India and another .... Respondents

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

Present: Mr. Rajesh Mehna , Advocate
for the petitioner.

Mr. Kunal Sharma, Advocate
for the respondents.

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AJAY TEWARI, J (ORAL)

On 29.09.2021, the following order was passed:-

> **“CM-13792-CWP-2021**
>
> This is an application for placing on record the written statement along with copy of notice dated 13.08.2021 (Annexure R-1).
>
> For the reasons stated in the application, the written statement along with copy of notice dated 13.08.2021 (Annexure R-1) is taken on record, subject to all just exceptions.
>
> CM stands disposed off.
>
> **CWP-13837-2021**
>
> By this petition, the petitioner has challenged the action of the respondents in seeking to assume jurisdiction under Section 148 of the Income Tax Act, vide notice dated 30.03.2021 (Annexure P-12) for the Assessment Year 2013-14.
>
> One of the issue which has arisen is that despite the fact that after filing Income Tax Return, the

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petitioner had specifically sought the copy of the reasons recorded for initiating the proceedings and had made that request at the Email ID specified by the respondents themselves by Annexure P-14 (in terms of judgment of Hon'ble Supreme Court in *"GKNDriveshafts (India) Ltd. V/s Income Tax Officer and others" 2002 Supp (4) SCR 359)*, no reasons were supplied to him.

In the reply, a very interesting averment has been made which is as follows:-

> *"It may be noted that the factum of the petitioner's demand qua recorded reasons for issuance of notice under Section 148 of the Act and proof of sanction under Section 151 of the Act came to the knowledge of the answering respondent only after filing of the present petition and in response thereto, same were supplied to the petitioner vide notice dated 13.08.2021.*
>
> *Further as per the law laid down in GKN Driveshafts (Supra) the petitioner/assessee after receiving reasons is entitled to file objections to the issuance of notice and that Assessing Officer is bound to dispose of the same by passing a speaking order."*

It has further been stated in the reply that Email dated 16.06.2021 was never received on the portal of the respondents. However, there is no explanation as to why the request which was sent on the official Email ID of the Authority, was not taken cognizance of.

Further, learned counsel for the petitioner has pointed out document (Annexure P-15) which is titled *'Notice under Section 143(2) read with Section 147*

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> *of the Income Tax Act, 1961'* . It is his contention that even in this notice, nothing has been mentioned, yet in para 3, the petitioner has been asked to submit his response with supporting documents. As per him, no response could be given if nothing was mentioned.
>
> As per learned counsel for the respondents, this document though termed as notice is actually only an acknowledgment.
>
> We also need further clarification on this issue.
>
> List on 15.12.2021.
>
> In the meantime, further proceedings shall remain stayed."

Today, an additional affidavit has been filed, wherein it has been sought to be reiterated that in fact the e-mail sent by the petitioner was not received which fact is strongly flouted by learned counsel for the petitioner.

Be that as it may, we do not deem it appropriate to go into this aspect since Mr. Kunal Sharma, Advocate has very fairly stated that in any case, if the petitioner now file his objections, the same will be considered. In this view of the matter, we are inclined to ignore the issue regarding the receipt/non-receipt of the e-mail because the primary grouse of the petitioner in the writ petition was that the objections filed by him were not considered and the reasons for the proposed re-assessment were not supplied. Now that the e-mails are there before the petitioner and the respondents have stated that they shall consider any objections which the petitioner may file, the basic claim of the petitioner has been accepted.

We deem it appropriate to dispose of the writ petition on this statement.

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The petitioner may file his objections within 15 days & the same shall be considered as stated by learned counsel for the respondents, and an order be passed in accordance with law.

(AJAY TEWARI)
JUDGE

(PANKAJ JAIN)
JUDGE

03.02.2022
Dinesh

Whether speaking/reasoned	:	Yes
Whether Reportable	:	No

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