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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 11944/2022**

BALESH JAIN SONS HUF

..... Petitioner

Through: Mr. Dinesh Mohan Sinha, Advocate

versus

ASSISSTANT COMMISSIONER OF INCOME TAX AND ANR

..... Respondents

Through: Mr. Abhishek Maratha, Sr. Standing Counsel.

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Date of Decision: 06th September, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, J (Oral):

1. Present writ petition has been filed challenging the show cause notice dated 17th May, 2022 issued under Section 148A(b) of the Income Tax Act, 1961 [‘the Act’] as well as order dated 29th June, 2022 issued under Section 148A(d) of the Act for the Assessment Year 2014-15.
2. On 18th August, 2022, this Court had issued notice in the present writ petition. The relevant portion of the order dated 18th August, 2022 is reproduced hereinbelow:-

“Learned counsel for the petitioner states that the Petitioner filed its return of income for the relevant Assessment Year declaring an income of Rs.10,80,404/- and an intimation under Section 143(1) of the Act was issued. He states that the Petitioner received the impugned show cause notice dated 17th May, 2022 issued under Section 148A(b) of the Act seeking



to reassess the income of the Petitioner on the ground that the Petitioner had undertaken transactions worth Rs.87,60,348/- with Mr.Naresh Manakchand Jain in the form of accommodation entries and the same had escaped assessment. He states that in his reply dated 27th May, 2022, the Petitioner informed the authorities that he had had no dealing with Mr.Naresh Manakchand Jain and also submitted details regarding the income earned by him during the year under consideration as well as his bank statement.

Learned counsel for the petitioner states that the impugned order dated 29th June, 2022 was issued under Section 148A(d) of the Act rejecting the contentions of the Petitioner on the ground that the Petitioner had not submitted any supporting evidence to show that the alleged information was incorrect and therefore the transaction of Rs.87,60,348/- undertaken by the Petitioner remained unexplained.

It is not understood by this Court as to how the petitioner can prove the negative! It is pertinent to mention that no instance of any transaction between the petitioner and Mr.Naresh Manakchand Jain has been placed on record by the Assessing officer.”

3. Today, Mr.Abhishek Maratha, learned counsel for the respondents-revenue, states that as per information received from Central Circle -2(1), Mumbai through Insight Portal, (a copy of which has been shown to this Court), the assessee has been found to be a beneficiary of accommodation entries from Mr.Naresh Manekchand Jain and his several associates who had been instrumental in manipulating prices of several penny stock scrips on the stock exchange.

4. He further states that the name of the assessee appears in the list of beneficiaries (at Sr.No.7779) who had done transaction in such scrips during the financial year under consideration i.e. financial year 2013-14. He has also shown the list of beneficiaries to this Court.



5. This Court is of the view that the documents shown by Mr. Maratha today should have been enclosed with the notice issued under Section 148A(b) by the respondents-revenue to the petitioner.

6. To balance the equities, this Court sets aside the order dated 29th June, 2022 issued under Section 148A(d) of the Act for the assessment year 2014-15 and directs the respondents-revenue to issue a supplementary notice under Section 148A(b) of the Act within four weeks enclosing all the relevant material, information and documents, including the two documents shown to this Court today after redacting third party information. The petitioner is given liberty to file an additional reply/response within four weeks thereafter. Along with its reply/response, the petitioner shall enclose copies of its Demat Account and its Bank Account Statement. The Assessing Officer is directed to pass a fresh order under Section 148A(d) of the Act in accordance with law. This Court clarifies that it has not commented on the merits of the controversy. The rights and contentions of all the parties are left open.

7. With the aforesaid directions, the present writ petition along with applications stands disposed of.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 6, 2022/TS