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

\+ W.P.(C) 12123/2022, CM APPL. 36240-41/2022

CL PRODUCTS INDIA LIMITED ..... Petitioner

Through: Mr. Sahil Mahajan & Mr. Abhimanyu Goel, Advocates.

versus

INCOME TAX OFFICER WARD 5 1 DELHI & ORS. ..... Respondents

Through: Mr. Zoheb Hossain, Sr. Standing Counsel for Revenue, Mr. Vipul Agrawal & Mr. Parth Semwal, Jr. Standing Counsels for Revenue.

% Date of Decision: 26th August, 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):**

**CM APPL. 36241/2022 (exemption)**

Exemptions allowed, subject to all just exceptions.

Accordingly, these applications stand disposed of.

**W.P.(C) 12123/2022 & CM APPL. 36240/2022 (for interim relief)**

1. Present writ petition has been filed challenging the show cause notice dated 22nd July, 2022 issued under Section 148A(b) of the Income Tax Act, 1961 [‘the Act’] as well as the order passed under Section 148A(d) of the Act and the notice issued under Section 148 of the Act both dated 30th July,

2022 for the Assessment Year 2013 - 14.

2. Learned counsel for the Petitioner states that show cause notice had been issued to the Petitioner on 22nd July, 2022 and only three days' time was given to the Petitioner to file reply. He also states that the information had been sent to the Petitioner on the email ID pricepotters@gmail.com despite being fully aware that the same was not being used by the Petitioner anymore.

3. Learned counsel for the Petitioner states that the Petitioner had approached this Court in W.P.(C) 4703/2022 challenging an order dated 1st January, 2021 passed under Section 127 of the Act transferring the jurisdiction of the Petitioner from Delhi to Jammu without issuing the required notice. He states that this Court vide order dated 31st May, 2022 has granted a stay on the operation on the impugned order passed under Section 127 of the Act. He states that since the Petitioner has challenged the transfer of jurisdiction of the Petitioner, it is not clear which State has jurisdiction over the assessment of the Petitioner. He further states that despite this, the Respondents have issued various notices to the Petitioner without giving it adequate time to respond.

4. This Court is of the view that in law there cannot be a vaccum. As the order transferring jurisdiction under Section 127 of the Act has been stayed by this Court, the initial Assessing Officer in Delhi will continue to exercise the jurisdiction over the Petitioner/Assessee. Consequently, the show cause notice issued under Section 148A(b) of the Act and the impugned order issued by the Assessing Officer are within jurisdiction. However, as the Petitioner has been given only three days' time to file reply to the show cause notice instead of minimum notice of seven days as stipulated under

Section 148A(b) of the Act, the impugned order dated 30th July, 2022 is set aside.Accordingly, the Petitioner is directed to file a reply to the show cause notice issued under Section 148A(b) of the Act within two weeks and the Assessing Officer is directed to decide the matter afresh in accordance with law within six weeks thereafter.

5. With the aforesaid directions, present writ petition along with pending application stands disposed of. It is clarified that the rights and contentions of all the parties are left open.

**MANMOHAN, J**

**MANMEET PRITAM SINGH ARORA, J**

**AUGUST 26, 2022/**msh