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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 13171/2022 & CM APPLs.39885-39886/2022

VEGA TECHNET PRIVATE LIMITED

..... Petitioner

Through: Mr.Amit Kaushik, Advocate.

versus

INCOME TAX OFFICER, WARD 26(1), DELHI Respondent

Through: Mr.Puneet Rai, Sr.Standing Counsel
with Ms.Adeeba Mujahid, Jr.Standing
Counsel and Mr.Nikhil Jain,
Advocate.

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Date of Decision: 09th 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 order dated 17th July, 2022 passed under Section 148A(d) of the Income Tax Act, 1961 [‘the Act’] and the notice dated 18th July, 2022 issued under Section 148 of the Act for the Assessment Year 2016-17.

2. Learned counsel for the petitioner states that pursuant to the directions of the Supreme Court in *Union of India v. Ashish Agarwal*, 2022 SCC *OnLine SC 543*, the Petitioner was issued a letter dated 25th May, 2022 under Section 148A(b) of the Act alleging that Petitioner had sold immovable property of Rs. 6,79,00,000/-. He states that the petitioner filed a



reply on 14th June, 2022 to the said letter, wherein it was submitted that the Petitioner had not sold any property during the year under consideration but property had been registered in the petitioner's favour worth Rs.8,19,61,960/- and that the Petitioner had filed multiple replies to the notices issued under Section 133(6) of the Act by the Intelligence and Criminal Investigation Unit of the Tax Department in Delhi and Ghaziabad on the issue of the purchase of property. He further states that in the impugned order dated 17th July, 2022 passed under Section 148A(d) of the Act, the Respondents while admitting the factual mistake stated that since the Petitioner already knew about the issue, he should have explained the source of the purchase of the property in its reply.

3. Learned counsel for the petitioner states that the Respondents never asked the Petitioner to explain the source of purchase of the property. He, however, states that the Respondents initiated the reassessment proceedings on the ground that the Petitioner had not explained the source.

4. Issue notice. Mr. Puneet Rai, learned counsel for the respondent-revenue, accepts notice. He reiterates that though there was factual mistake in the notice issued under Section 148A(b) of the Act, yet as the petitioner knew the factual issue, he should have explained the source of purchase of property.

5. After hearing learned counsel for the parties, this Court is of the view that there has been clear violation of principles of natural justice, inasmuch as, the respondent never asked the petitioner to explain the source of purchase of the property and passed the impugned order on the basis that petitioner did not explain the source of the purchase.



6. Consequently, the impugned order passed under Section 148A(d) and notice issued under Section 148 dated 17th and 18th July, 2022 of the Act are set aside and the respondent is given liberty to issue a corrigendum and a supplementary show cause notice under Section 148A(b) within two weeks. Thereafter, the petitioner is given liberty to file a reply to the notice issued under Section 148A treating the transaction of sale as a transaction of purchase within four weeks. The petitioner in its reply shall also explain the source of fund for purchase of property. The Assessing Officer shall pass the order under Section 148A(d) of the Act in accordance with law.
7. With the aforesaid direction and liberty, the present writ petition along with applications stands disposed of.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 9, 2022
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