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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 13404/2022 & C.M.No.40705/2022

UPPAL CHADHA HI-TECH DEVELOPERS PVT. LTD. (AFTER
MERGER OF SCILLA TOWN PLANNERS PVT. LTD.)

..... Petitioner

Through: Mr.Salil Kapoor, Advocate with
Mr.Sumit Lalchandani, Mr.Vibhu
Jain and Ms.Ananya Kapoor,
Advocates.

versus

INCOME TAX OFFICER, WARD 22(3), DELHI & ANR.

..... Respondents

Through: Mr.Puneet Rai, Sr.Standing Counsel.

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Date of Decision: 15th 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):

C.M.No.40737/2022 (exemption)

Allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) No.13404/2022 & C.M.No.40705/2022

1. Present writ petition has been filed challenging the show cause notice dated 26th May, 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 May,



2022 for the Assessment Year 2013-14.

2. Learned counsel for the petitioner submits that the impugned order and notice are void *ab initio* as they have been issued in the name of “Scilla Town Planners Pvt. Ltd.” [‘STPPL’], a non-existent entity as it had merged with the Petitioner-company vide order dated 5th May, 2014 of this Court with the appointed date of merger being 1st April, 2014.

3. He 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 26th May, 2022 under Section 148A(b) of the Act alleging that STPPL had advanced a sum of Rs.15 Crore to M/s Wave One Pvt. Ltd. despite there being no revenue earned by the assessee during the concerned year.

4. He states that the Petitioner filed a reply dated 9th June, 2022 explaining that the payment in question had been made by STPPL from the unsecured loan that it had received from M/s Uppal Chadha Hi-Tech Developers Pvt. Ltd. during the year under consideration.

5. He points out that STTPL, petitioner as well as M/s Wave One Pvt. Ltd. belong to one common group. He emphasises that scrutiny assessments had taken place in the case of M/s Wave One Pvt. Ltd. as well as M/s Uppal Chadha Hi-Tech Developers Pvt. Ltd. in the assessment year 2013-14 itself and the said loan transaction had been examined.

6. Issue notice. Mr.Puneet Rai, Senior Standing Counsel for the respondents-revenue, accepts notice.

7. With the assistance of both the learned counsel for the parties, we have gone through the order under Section 148A(d) of the Act. We find that the impugned order does not deal with the contentions and submissions



advanced by the petitioner in its replies dated 9th June, 2022 and 28th June, 2022.

8. Since the impugned order and the notice issued under Section 148 of the Act are non-reasoned, the same are set aside and the matter is remanded back to the Assessing Officer for a fresh consideration under Section 148A(d) of the Act. The Assessing Officer shall pass a fresh reasoned order in accordance with law within eight weeks. This Court clarifies that the Assessing Officer shall be at liberty to conduct any further enquiry or verification before passing the order.

9. With the aforesaid liberty and direction, the present writ petition along with application stands disposed of.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 15, 2022
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