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

+ **W.P.(C) 14029/2022**

SANJAY THAPAR

..... Petitioner

Through: Mr.Vineet Bhatia, Advocate with
Dr.Rakesh Kumar, Advocate.

versus

INCOME TAX OFFICER, CIRCLE 49(1)

..... Respondent

Through: Mr.Ajit Sharma, Sr.Standing Counsel
with Mr.A.Renganath, Advocate.

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Date of Decision: 28th 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 notice issued under Section 148A(b) of the Income Tax Act, 1961 ('the Act') dated 14th March, 2022, the Order passed under Section 148A(d) of the Act dated 24th March, 2022 and the Notice dated 25th March, 2022 issued under Section 148 of the Act for the Assessment Year 2018-19.

2. Learned counsel for the Petitioner states that the Respondent vide the impugned Notice dated 14th March, 2022 issued under Section 148A(b) of the Act directed the Petitioner to file its response by 23rd March, 2022. He states that the said impugned notice was received by the Petitioner via email, however, the same was an encrypted file and did not open in the mail. He



further states that the Petitioner immediately responded to the email on 14th March, 2022 stating that the impugned notice attached to the email was not accessible.

3. He states that the said impugned notice was received through speed post only on 17th March, 2022, directing the Petitioner to respond by 23rd March, 2022, thereby providing less than the mandatory statutory period of seven days under Section 148A(b) of the Act. He states that the Petitioner vide the email dated 23rd March, 2022 requested for an adjournment. However, the Respondent, without considering the same, passed the impugned order under Section 148A(d) of the Act ex-parte.

4. He states that the Petitioner filed its reply along with annexures by way of email dated 25th March, 2022 and also apprised the Respondent that the impugned order is bad in law, inasmuch as, the same had been passed without giving minimum period of seven days to respond. He, however, states that the Respondent, without considering the same, issued the impugned Notice under Section 148 of the Act.

5. Learned counsel for the petitioner relies on the decision of this Court in ***Shri Sai Co-Operative Thrift and Credit Society Ltd. Versus ITO, Ward 43-6, WP(C) 7385/2022***, wherein it has been held that under Section 148A(b) of the Act, a minimum time of seven days has to be granted to the assessee to file its reply to the said show cause notice.

6. Issue notice. Mr.Ajit Sharma, learned counsel for the respondent-revenue, accepts notice. He states that the respondent-revenue has no objection, if the present matter is remanded back to the Assessing Officer for a fresh decision in accordance with law.

7. Consequently, the impugned order passed under Section 148A(d) of



the Act dated 24th March, 2022 for the assessment year 2018-19 is set aside and the Assessing Officer is directed to pass a fresh reasoned order within eight weeks in accordance with law after considering the reply of the petitioner, which is directed to be re-filed within a week. 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. With the aforesaid direction, the present writ petition stands disposed of.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 28, 2022
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