

\$~60

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

+ W.P.(C) 14855/2022

MAHALAXMI DYE INDIA PVT.LTD

..... Petitioner

Through: Mr. Dinesh Mohan Sinha, Advocate

versus

ASST.COMMISSIONER OF INCOME TAX AND ANR

..... Respondents

Through: Mr. Abhishek Maratha, Advocate

%

Date of Decision: 20th October, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, J:

1. Present writ petition has been filed challenging the notice dated 18th May, 2022 issued under Section 148A(b) of the Income Tax Act, 1961 (for short 'Act') and the order dated 26th July, 2022 passed under Section 148A(d) of the Act for the Assessment Year 2014-15.
2. Learned counsel for the Petitioner states that the impugned order is arbitrary and cryptic since sum of Rs.1,18,000,000/- is held to have escaped

assessment without considering that no accommodation entry was taken by the Petitioner. He states that the business of trading in chemical and other allied goods and the transaction took place during the year with the proprietor of M/s Seema Enterprises, Seema Gupta, through proper banking channels. He states that the Petitioner as well as M/s Seema Enterprises filed their DVAT returns which were duly acknowledged by the Department. He states that the Forms 2A and 2B duly matched upon verification by the Department. He states that the impugned order has been passed without any application of mind and without appreciating the nature of business of the Petitioner.

3. A perusal of the paper book reveals that during the investigation it has been found that M/s Seema Enterprises is not involved in any real business and hence the contention of the learned counsel for the petitioner that it made payments in the course of business was not accepted. Further, in the impugned order the Assessing Officer has specifically recorded that the proprietor Smt. Seema Gupta has accepted that her firm was not engaged in real business activities. This Court is of the view that merely filing of VAT returns cannot be held to establish genuineness of transaction especially when it was not shown that the VAT Department had made any physical or spot enquiry. Moreover, neither M/s Seema Enterprises nor the Petitioner had produced before the Assessing Officer the transport details, purchase contract or bills with regard to the alleged purchases. Therefore, *prima facie* this Court is also of the view that income has escaped assessment.

4. Accordingly, this Court finds no error in the impugned order.

5. Consequently, the present writ petition is disposed of with liberty to the Petitioner to file all the relevant documents/evidences and to urge all its contentions and submissions before the Assessing Officer.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

OCTOBER 20, 2022
AS



नित्यमेव जयते