

\$~45

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

+ **W.P.(C) 15389/2022 & CM APPLs.47834-47835/2022**

OMESH JAIN

..... Petitioner

Through: Mr. Divyanshu Agrwal, Advocate

versus

INCOME TAX OFFICER WARD 46(1),DELHI Respondent

Through: Mr. Abhishek Maratha, Advocate

%

Date of Decision: 10th November, 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 passed under Section 148A(d) of the Income Tax Act, 1961 (for short 'Act') and consequential notice issued under Section 148 of the Act, both dated 31st March, 2022 for the Assessment Year 2018-19.

2. Learned counsel for the Petitioner states that against the notice dated 17th March, 2022, a prayer for adjournment was filed on 23rd March, 2022 requesting the Respondent to grant further time of ten days i.e. till 02nd April, 2022 for filing the reply. He states that the reply was in fact filed on 30th March, 2022 by way of an email as the online submission portal was closed by the Respondent. However, he states that without considering the said response, an ex-parte order was passed violating the statutory mandate, resulting in gross miscarriage of justice.

WPC 15389/2022

Page 1 of 2

Signature Not Verified

Digitally Signed By: ASWANT
SINGH RAWAT
Signing Date: 14.11.2022
18:49:18



3. With the assistance of learned counsel for the petitioner, we have perused the reply dated 29th March, 2022 filed on 30th March, 2022 with the Assessing Officer. In the said reply, the petitioner has only asked to be served with the information / documents in possession of the respondent-revenue. The petitioner has given no reply on merits.
4. This Court is of the view that if the petitioner desired the requisite information / documents in possession of the respondent-revenue, he should have asked for the same on the day one and certainly not waited for seven months to approach this Court.
5. Since the matter has now progressed to the next stage i.e. Section 148 stage, this Court disposes of the present writ petition with a direction to the respondent-revenue to supply the incriminating material / information against the petitioner within four weeks.
6. The petitioner shall be at liberty to urge all its contentions and submissions before the Assessing Officer.
7. With the aforesaid direction and liberty the present writ petition and pending applications stand disposed of.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 10, 2022
AS