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

+ **W.P.(C) 15414/2022 & CM APPLs.47915-47916/2022**

MITTAL INTERNATIONAL

..... Petitioner

Through: Mr. Kapil Goel, Advocate (through
VC)

versus

**THE ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE
52 1 NEW DELHI**

..... Respondent

Through: Mr. Kunal Sharma, Advocate with
Ms. Zehra Khan and Mr. Siddharth
Jamwal, Advocates

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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 impugned order passed under Section 148A(d) of the Income Tax Act, 1961 (for short 'Act') and notice issued under Section 148 of the Act, both dated 26th July, 2022 for the Assessment Year 2016-17.

2. Learned counsel for the Petitioner states that the respondent has conducted the impugned proceedings on deactivated PAN AAAFM2684G. He states that the Petitioner has repeatedly communicated to the Respondents that it has made all income tax related compliances on correct / active PAN AAAFM7234J as all relevant financial transactions have been

fully recorded and accounted for in regular audited final accounts of Petitioner and thus no income has escaped assessment in its hands.

3. Learned counsel for the Petitioner emphasises that the Income Tax Department in pursuance to assessee's letters filed on 09th November, 2017 and 23rd November, 2017 for surrender of incorrect PAN has formally deactivated the same on 05th December, 2017. He states that there is subsequent correspondence by the Petitioner communicating the factum of deactivation of incorrect PAN as recently as 18th April, 2022.

4. Issue notice.

5. Mr. Ajit Sharma, learned counsel accepts notice on behalf of the respondent. He states that the assessee had filed no response on the merits of the case and hence Rs.10,15,17,895/- was determined as income having escaped assessment in the form of stock / bills of entry for import.

6. In rejoinder, learned counsel for the petitioner has drawn this Court's attention to pages 121 & 153 of the paper book which are response / replies given by the petitioner during the proceeding under Section 142(1) of the Act.

7. Having heard learned counsel for the parties, this Court is of the view that interest of justice would be served if the petitioner is given an opportunity to file a supplementary reply to the notice issued under Section 148A(b) of the Act. Consequently, the impugned order passed under Section 148A(d) of the Act and the notice issued under Section 148 of the Act, both dated 26th July, 2022 for the Assessment Year 2017-18 are set aside and the petitioner is directed to file a supplementary reply to the notice issued under Section 148A(b) of the Act within four weeks. The Assessing Officer shall pass a fresh order under Section 148A(d) within eight weeks thereafter in



accordance with law. Since the proceedings are being conducted on a deactivated PAN, the Assessing Officer is directed to entertain emails / hard copies of the replies / materials / evidences filed by the petitioner.

8. 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.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 10, 2022
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