

17.7.2023

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WPA 15393 of 2023

Aachman Marketing Private Limited & Anr.
Vs
Deputy Commissioner of Income Tax & Anr.

Mr. Abhratosh Mazumder, Ld. Sr. Adv.,
Mrs. Akshara Shukla
... For the Petitioners.
Mrs. Smita Das De
... For the Respondents.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioners have challenged the impugned show-cause-notice dated 30th May, 2023, under Section 24 of the Prohibition of Behami Property Transaction Act, 1988 by which petitioners were asked to give reply to the same within 15 days from the date of receipt of the said show-cause-notice and a date of hearing was also fixed on 13th June, 2023, which the petitioners did not avail and filed this writ petition on 30th June, 2023, after expiry of the date of filing of such reply to the impugned show-cause-notice and after the expiry of the date of hearing. Petitioners are challenging the impugned show-cause-notice on the ground of jurisdiction of the respondent authority concerned and petitioners rely on a decision of the Hon'ble Supreme Court in the case of Union of India vs. Ganpati Dealcom (P.) Ltd. reported in (2022) 141 taxmann. com 389 (SC). The allegation of the respondent authority is that the

petitioners have invested in movable property in the form of mutual fund in question amounting to Rs.77,16,157/- in the financial year 2018-19 though Mr. Mazumder, learned senior Advocate appearing for the petitioners submits that the alleged transaction against which the impugned show-cause-notice has been issued relates back to the financial year 2014-15.

Considering the facts and circumstances of the case I am not inclined to interfere with the impugned show-cause-notice at this stage and extending the time to file objection/response to the aforesaid impugned show-cause-notice by a period of two weeks from date and the respondents authority concerned shall consider the same in accordance with law and pass a reasoned and speaking order after giving an opportunity of hearing to the petitioners of its authorised representative and shall also consider the applicability of the aforesaid judgment of the Hon'ble Supreme Court, namely Union of India vs. Ganpati Dealcom (P.) Ltd.(supra) and such final order on the impugned show-cause-notice will be passed by the respondents authority concerned within a period of four weeks from the date of receipt of such objection/response and the order so passed shall not be given effect to for a period of two weeks from the date of service of the same on the petitioners and the

petitioners will be at liberty to challenge the same, if so aggrieved in accordance with law.

With this observation and direction this writ petition being WPA 15393 of 2023 is disposed of.

(Md. Nizamuddin, J.)