IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-16097-2022
Date of decision:- 30.01.2023

Rajan Thukral ....Petitioner

vs.

Union of India and ors. ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms Radhika Suri, Sr. Advocate assisted by
Mr. Chetan Jain, Advocate and
Mr. Rajat Khann, Advocate
for the petitioner.

Ms. Gauri Neo Rampal, Jr. Standing counsel
for the respondents

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Ritu Bahri, J. (Oral)

The present writ petition has been filed under Article 226/227 of the Constitution of India, seeking a writ of certiorari for quashing order dated 30.03.2022 (P-8) and consequential notice dated 30.03.2022 (P-9).

The case in brief is that petitioner filed its income tax return for the assessment year 2018-19 declaring total income of Rs.1,50,43,450/-. On 19.03.2022 (P-6), the petitioner was issued a notice under Section 148 A (b) of the Income Tax Act, 1961(for short 'Act 1961') raising the question on the source of loan given by the petitioner. It has been stated in the notice that keeping in view of provisions of Section 148 A (b) of the Act 1961, why notice under Section 148 of Act 1961 be issued in your case for relevant assessment year, since income to the extent of Rs.17,56,20,256/- has escaped assessment for the relevant assessment year. To this show cause notice, petitioner could not file reply online and the reply was filed by way

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of email dated 24.03.2022 (P-7) along with annexures on the registered email id of the respondent. The copy of screen shot of the email sent on 24.03.2022 is Annexure P-13 and status report of the email dated 24.03.2022 is Annexure P-14 which shows that the status as 'Delievered' at the respective email address of the respondent.

However, learned counsel for the respondent has argued that the department has not received the reply of the petitioner and hence the impugned order has rightly been passed.

Learned senior counsel for the petitioner submits that similar issue has come up for consideration before Hon'ble Delhi High Court in a case of ***Mittal International vs. Assistant Commissioner of Income Tax***, passed in Writ Petitoin No. 15982-2022, decided on 21.11.2022 wherein it was the case of the respondent that the assessee filed no response on the merits of the case. However, the impugned order and notice were set aside and the assessee was directed to file a supplementary reply to the notice issued under Section 148A (d) within four weeks. The Assessing Officer was directed to pass a fresh order under Section 148 A (d) within eight weeks in accordance with law.

This judgment is directly applicable to the facts of the present case, as in the present case as well, after issuance of notice to the assessee on 19.03.2022 (P-6), he could not file the reply online but he submitted the same by way of email dated 24.03.2022 (P-7) along with annexures on the registered email id of the respondent. This email was also delievered as per status report of the email dated 24.03.2022 (Annexure P-14).

In view of the above factual position, the present petition is allowed and order dated 30.03.2022 (P-8) and consequential notice dated

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30.03.2022 (P-9) are set aside. The assessee is directed to file a supplementary reply to the notice issued under Section 148A (b) within two weeks. The Assessing Officer is directed to pass a fresh order in accordance with law.

(RITU BAHRI)
JUDGE

30.01.2023 **(MANISHA BATRA)**
G Arora **JUDGE**

Whether speaking/reasoned *:* Yes/No
Whether reportable *:* Yes/No

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