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

% *Date of Decision: 16.03.2023*

+ **W.P.(C) 3214/2023**

LOTUS LAW PARTNERS LLP THROUGH LEGAL
HEIR OF ITS MANAGING PARTNER Petitioner

Through: Mr Gaurav Gupta, Adv.

versus

INCOME TAX OFFICER WARD 54 (4) DELHI Respondent

Through: Mr Sanjay Kumar, Sr Standing
Counsel with Ms Hemlata Rawat,
Adv.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MS JUSTICE TARA VITASTA GANJU

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (Oral):

CM Appl.12506/2023

1. Allowed, subject to just exceptions.

W.P.(C) 3214/2023 & CM Appl.12505/2023 *[Application filed on behalf
of the petitioner seeking interim relief]*

2. Issue notice.

2.1 Mr Sanjay Kumar accepts notice on behalf of the
respondents/revenue.

3. In view of the order that we intend to pass Mr Kumar says that no
counter-affidavit is required to be filed in the matter. With the consent of the
counsels for the parties, the matter is taken up for final hearing and disposal,
at this stage itself.

4. *Via* this writ petition, a challenge is laid to the notice dated 14.03.2022 issued under Section 148A(b) and the order dated 31.03.2022 passed under Section 148A(d) of the Income Tax Act, 1961 [hereafter referred to as the “Act”].

4.1 Besides this, a challenge is also laid to the consequential notice dated 31.03.2022 issued under Section 148 of the Act.

5. The impugned notices and order concern Assessment Year (AY) 2018-19.

6. Mr Gaurav Gupta, learned counsel, who appears on behalf of the petitioner, says that the petitioner LLP stood dissolved on 22.02.2022.

6.1 Mr Gupta further contends that although the petitioner LLP stood dissolved on 22.02.2022, the impugned notice under Section 148A(b) of the Act was issued to the said entity, which was no longer in existence.

7. On being queried, Mr Gupta concedes that the information, concerning dissolution of the petitioner LLP was given to the respondent/revenue only on 09.03.2023. We are also told that the Mr Keshav Mohan, managing partner of the dissolved petitioner LLP expired on 01.05.2021.

8. This writ petition has been filed on behalf of the dissolved LLP by Ms Ragini Mohan, the wife of the deceased Mr Keshav Mohan.

8.1. The petition, as framed, contains an error, although, one which is not substantial. The writ petition should have been instituted in the name of Ms Ragini Mohan and not in the name of the dissolved LLP.

8.2. However, as noted above, since the petition is supported by an affidavit of Ms Ragini Mohan, this de minimis error need will not detain us.

9. The more substantial point that Mr Gupta has raised is that

proceedings taken out against the dissolved entity i.e., Lotus Law Partners LLP, cannot continue; a submission with which we cannot but agree.

10. Given this position, the impugned notices and order are set aside.

11. Liberty is, however, given to the Assessing Officer (AO) to issue to Ms Ragini Mohan, who is the Legal Representative (LR) of the deceased managing partner [i.e., Mr Keshav Mohan], fresh notice under Section 148A(b) of the Act.

11.1 The notice will be issued within two (2) weeks of receipt of a copy of the order passed today.

11.2. The noticee i.e., Ms Ragini Mohan shall be given two (2) weeks to file a reply to the notice.

11.3. Furthermore, the AO will also accord personal hearing to Ms Ragini Mohan and/or her authorized representative.

11.4. The AO shall, thereafter, take next steps, in law, as deemed fit.

12. It is clarified that limitation will not come in the way of the respondent/revenue, given the peculiar circumstances which have arisen in this case.

13. The writ petition is disposed of in the aforesaid terms. Pending application shall also stand closed.

14. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

MARCH 16, 2023/pmc