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IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P.(C) 3797/2023

Date of decision: 27.03.2023

MAJESTIC HANDICRAFT PRIVATE LIMITED Petitioner

Through: Mr Ajay Kumar, Mr Prakash Kumar
Sinha & Mr Kartik Garg, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX Respondent

Through: Mr Abhishek Maratha, Sr. Standing
Counsel with Mr Akshat Singh, Jr.
Standing Counsel.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER
HON'BLE MS JUSTICE TARA VITASTA GANJU

ORDER

27.03.2023

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

RAJIV SHAKDHER, J.: (ORAL)

1. Issue notice.
 - 1.1 Mr Abhishek Maratha, learned senior standing counsel accepts notice on behalf of the respondent/revenue.
2. In view of the directions that we propose to pass, Mr Maratha says that no counter-affidavit is required to be filed in the matter. Therefore, with the consent of the parties, the writ petition is taken up for final hearing and disposal, at this stage itself.
3. This writ petition is directed against notice dated 21.03.2022 issued under Section 148A(b) of the Income Tax Act, 1961 [in short, "the Act"].
 - 3.1 Besides this, challenge is also laid to the order dated 28.03.2022 passed under Section 148A(d) of the Act, and the consequential notice of

even date i.e., 28.03.2022 issued under Section 148 of the Act.

4. The principal allegation levelled against the petitioner is, that it is a beneficiary of accommodation entries provided by, one, Mr Sanjeev Sharma, proprietor of Balaji Enterprises and one, Mr Suresh Kumar, proprietor of Dev Sales Corporation.

4.1 The value placed by the respondent/revenue *qua* the accommodation entry provided by Balaji Enterprises is Rs.1,44,56,180.00/- Likewise, the value placed *vis-à-vis* accommodation entry provided by Dev Sales Corporation is Rs.61,34,006/-. The cumulative value of these accommodation entries is thus Rs.2,05,90,186/-.

5. Concededly, the petitioner had filed its reply *vis-à-vis* the Section 148A(b) notice.

6. *Inter alia*, the petitioner had submitted, that it is in the business of exporting readymade garments, which are sourced locally. It is asserted by the petitioner, that it had not taken accommodation entries from the aforementioned entities. The petitioner's case is, that it had purchased readymade garments from the aforementioned entities, and exported the same.

6.1 The petitioner avers, that against the exports made, it had claimed duty drawback, which was provided by the concerned authority.

6.2 Besides other documents, the petitioner has placed on record, the GSTR returns filed under the Goods and Services Tax Act, 2017 and the Rules framed therein.

6.3 Amongst other documents, the petitioner has placed on record its return in the prescribed form i.e., GSTR-2A, which sets out the inward supplies. These are supplies received by the petitioner from its registered

supplier. [See Annexure P-13 at page 204].

7. A perusal of the said details would show, that the GSTIN of the supplier is adverted to in the first column of the document placed before us. The GSTIN referred to therein matches with the GSTIN placed on the invoices issued by Balaji Enterprises and Dev Sales Corporation.

8. The impugned order passed under Section 148A(d) of the Act does not deal with this aspect of the matter.

9. The Assessing Officer (AO) primarily proceeds against the petitioner, based on the fact that Balaji Enterprises was not found at the given address. There could be several reasons, as to why Balaji Enterprises was not found at the given address.

9.1 What the AO is required to *prima facie* establish, is that the stand of the petitioner, which is that it had obtained supply of the readymade garments from the aforementioned entities was false.

10. It appears, that the AO has not done his due diligence in that behalf. Therefore, according to us, the best way forward would be to set aside the order dated 28.03.2022 passed under Section 148A(d), and the consequential notice of even date i.e., 28.03.2022 issued under Section 148A(b) of the Act concerning AY 2018-19. It is ordered accordingly.

10.1 The AO will, however, have liberty to carry out a *de novo* exercise. Before the AO proceeds further, he will examine the documents placed on record by the petitioner, with regard to the receipt of readymade garments from the aforementioned entities, and their consequential exports.

10.2 Needless to say, in case the AO furnishes further material to the petitioner, an opportunity will be given to the petitioner's authorized representative to respond to the same. The AO will also grant a personal

hearing to the authorized representative of the petitioner.

11. The writ petition is disposed of in the aforesaid terms.
12. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

MARCH 27, 2023 /r

[Click here to check corrigendum, if any](#)