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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Decision delivered on: 08.08.2023

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W.P.(C) 4769/2023 & CM No.40315/2023

RELIGARE ADVISORS LIMITED (FORMERLY KNOWN AS
RELIGARE WEALTH MANAGEMENT LIMITED) Petitioner

Through: Mr Rohit Jain, Adv.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 19(1),
DELHI & ORS. Respondents

Through: Mr Aseem Chawla, Sr Standing Counsel
with Ms Pratishtha Choudhary and Mr
Aditya Gupta, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

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

RAJIV SHAKDHER, J. (ORAL):

CM No.40315/2023

1. This is an application moved on behalf of the petitioner. The prayer made in the application reads as follows:

“a. kindly allow the present application and take aforesaid facts along with the amended memo of parties on record in Writ Petition (Civil) No. 4769 of 2023.”

2. The application is allowed, subject to just exceptions. The amended memo of parties is, accordingly, taken on record.

3. The application is disposed of.

**W.P.(C) 4769/2023**

4. Issue notice.

4.1 Mr Aseem Chawla, learned senior standing counsel, accepts notice on behalf of the respondents/revenue.

5. Given the direction that we propose to issue, Mr Chawla says that he does not wish to file a counter-affidavit, and he will argue the matter based on the record presently available with the Court.

5.1 Therefore, with the consent of learned counsel for the parties, the matter is taken up for hearing and final disposal, at this stage itself.

6. This writ petition concerns Assessment Year (AY) 2018-19.

7. *Via* this writ petition, challenge has been laid by the petitioner to the following orders and communications:

(i) Order dated 13.02.2020, passed by respondent no. 2.

(ii) Communications dated 15.09.2021, 03.11.2022, 09.01.2023, 15.01.2023 and 16.02.2023.

8. The principal grievance of the petitioner is that *via* the order dated 13.02.2020, the return filed by the petitioner on 15.10.2018 has been treated as an invalid return.

9. Mr Rohit Jain, who appears on behalf of the petitioner, says that when the return for AY 2018-19 was filed on 15.10.2018, the petitioner was described as Religare Wealth Management Ltd. [in short, "RWML"].

9.1 It is pointed out that the petitioner had applied for change of name, which was approved by the Registrar of Companies [in short, "ROC"] on 20.12.2018.

10. According to Mr Jain, thereafter, the petitioner was described as



Religare Advisors Ltd. [in short, “RAL”].

10.1 Mr Jain also draws our attention to the fact that, an application was preferred with the concerned authority for the change of Permanent Account Number (PAN).

10.2 Mr Jain says that although the PAN remained the same, the change in name was recognized by the concerned authority.

11. It appears that despite this position, on 14.02.2019, a notice was issued under Section 139(9) of the Income Tax Act, 1961 [in short, “Act”], labelling the petitioner’s return as defective.

11.1 The record shows that the petitioner filed a reply to the said notice on 21.02.2019.

12. In the reply, the petitioner had stated certain facts pertaining to the change in name of RWML to RAL. For some reason, this fact did not find favour with the respondents/revenue, and *via* communication dated 13.06.2019, in brief, the following was indicated to the petitioner:

“The assessee is required to enter the correct name in the return of Income as per PAN allotted. In case of name change the after filing of Return, same has to be updated in the PAN data base and the Return. In view of the above, Your response is not accepted.”

13. It appears that, thereafter, similar responses were received from CPC Bengaluru on 15.09.2021 and 03.11.2022; from the AO on 09.01.2023; once again on 15.01.2023 from CPC and lastly, on 16.02.2023 from the office of Additional DGIT (Systems).

14. Mr Jain submits that none of the impugned communications align with the provisions of Section 139 of the Act.

14.1 It is also Mr Jain’s contention, that this position was briefly recognized by the respondents/revenue, when the notice dated 22.09.2019,



under Section 143(2) of the Act was issued in the new name, i.e., RAL.

15. In brief, Mr Jain submits that Section 139(9) of the Act empowers the AO to intimate to the assessee any defect in the return filed by the assessee and grant an opportunity to cure the defect.

16. Insofar as what is to be construed as the “proper return”, it is provided in Explanation appended to sub-section (9) of Section 139 of the Act.

16.1 In other words, the return which does not have the attributes provided in the Explanation, is considered a defective return.

17. Thus, in sum, Mr Jain says that since the return filed by the petitioner on 15.10.2018 concerning AY 2018-19 was a proper return, it could not have been categorized as defective.

18. Mr Jain says that, therefore, the respondents/revenue’s insistence that the petitioner should file a revised return is completely uncalled for, and contrary to Section 139(9) of the Act.

19. Mr Jain submits that if this court were to accept the stance taken by the respondents/revenue, the petitioner would have to revise not only the return for AY 2018-19, but also returns filed for the AYs prior to the subject AY.

20. On the other hand, Mr Chawla says that the petitioner could have approached the Central Board of Direct Taxes (CBDT), for an extension of time to file a revised return, by taking recourse to Section 119(2)(b) of the Act.

21. Given the circumstances set forth hereinabove, we are of the view that this course of action does not align with the provisions of the Act.

22. The fact that there has been a change in the name of the petitioner is not in dispute; in fact, on the date when the return was filed, i.e., 15.10.2018,



the petitioner was described as RWML.

22. Accordingly, the impugned order and communications are set aside.

23. The respondents/revenue are directed to process the return filed on 15.10.2018 concerning the aforementioned AY, and pass necessary consequential orders.

14. The writ petition is disposed of, in the aforesaid terms.

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

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

AUGUST 8, 2023

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Click here to check corrigendum, if any