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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of decision: 27.04.2023*

+ **W.P.(C) 5408/2023 & CM APPL. 21163-64/2023**
MEGA SELFLUBE BEARINGS PVT. LTD. ..... Petitioner
Through: Ms Rano Jain, Adv. with Mr Vanketesh Mohan Chaurasia, Adv.

versus

INCOME TAX OFFICER, WARD 17(1), DELHI ..... Respondent
Through: Mr Gaurav Gupta, Sr. Standing Counsel with Mr Puneett Singhal, Mr Shivendra Singh, Advs.

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 No. 21164/2023

1. Allowed, subject to just exceptions.

W.P.(C) 5408/2023 & CM No. 21163/2023*[Application filed on behalf of the petitioner seeking interim relief]*.

2. Issue notice.

2.1 Mr Gaurav Gupta, senior standing counsel, accepts notice on behalf of the respondents/revenue.

3. Given the directions that we propose to pass, Mr Gupta says that he need not file a counter-affidavit in the matter and that he will argue based on the record presently available with the court. Therefore, with the consent of learned counsels for the parties, the writ petition is taken up for hearing and final disposal, at this stage itself.

4. This writ petition concerns Assessment Year (AY) 2016-17.

5. The writ petition lays a challenge to the order dated 31.03.2023 passed under Section 148A(d) of the Income Tax Act, 1961 [in short, "the Act"].

5.1 Besides this, challenge is also laid to the consequential notice of even date i.e., 31.03.2023 passed under Section 148 of the Act.

6. At the very outset, Ms Rano Jain, who appears on behalf of the petitioner, says that there has been a breach of principles of natural justice.

7. Ms Jain says that the timeframe granted for responding to the notice dated 21.03.2023 issued under 148A(b) of the Act, was less than the period prescribed under the Act.

7.1. It is Ms Jain's contention that although, facially, time was granted to file a response to the said notice "on or before 29.03.2023", in effect, the petitioner had only four (4) days to file a response, as the said notice was delivered to the petitioner on 25.03.2023.

8. Furthermore, Ms Jain submits that the impugned order dated 31.03.2023 was directed to the wrong e-mail address. In this context, our attention is drawn to the impugned order dated 31.03.2023 passed under Section 148A(d) of the Act.

8.1 Ms Jain says that this order was directed to the following e-mail ID: monishuppal@yahoo.com.

8.2 In order to demonstrate that this is not the correct e-mail ID, Ms Jain has drawn our attention to Annexure-G, which sets forth, *inter alia,* what, according to Ms Jain, is the correct e-mail ID of the petitioner i.e., anilsahay@msboiles.in.

9. Furthermore, Ms Jain also points out that in the impugned order

passed under Section 148A(d) of the Act, the Assessing Officer (AO) in paragraph 4.1 has made a reference to an extract, which, he has construed as outcome of the GST proceedings, whereas it is only an extract from the show cause notice.

10. Thus, for all these reasons, Ms Jain says that matter needs to be remanded to the AO for a fresh look.

11. Mr Gupta submits that since the impugned order was directed to the wrong e-mail ID, perhaps the best way forward would be to direct a fresh examination of the matter by the AO.

12. Accordingly, the writ petition is disposed of with the following directions:

(i) The impugned order passed under Section 148A(d) of the Act and the notice issued under Section 148 of the Act, both of which are dated 31.03.2023, are set aside.

(ii) Liberty is given to the AO to carry out a *de novo* exercise.

(iii) The AO will update his record and take note of the correct e-mail ID of the petitioner.

(iv) The AO will furnish the information/documents which are in his possession and have not been furnished to the petitioner as yet.

(v) The AO will accord personal hearing to the authorized representative of the petitioner. Notice, in this behalf, will be issued indicating the date and time of hearing.

(vi) Needless to add, the AO will pass a speaking order.

13. Pending applications, if any, shall stand closed.

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

(RAJIV SHAKDHER)
JUDGE

(TARA VITASTA GANJU)
JUDGE

APRIL 27, 2023/SA