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

% *Date of decision: 15.05.2023*

\+ **W.P.(C) 6250/2023 & CM APPL. 24580/2023**

MAJESTIC HANDICRAFT PRIVATE LIMITED..... Petitioner

Through: Mr Prakash Kumar Sinha, Advocate.

versus

DY. COMMISSIONER OF INCOME TAX ..... Respondent

Through: Mr Abhishek Maratha, Sr. Standing Counsel.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MR. JUSTICE GIRISH KATHPALIA

[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.

1.2 In view of the directions we propose to issue, Mr Maratha says that no counter-affidavit is required to filed in the matter and he will rely on the record presently available to the court.

1.3 Therefore, with the consent of counsel for the parties, this writ petition is taken up for hearing and final disposal, at this stage itself

2. This writ petition concerns Assessment Year (AY) 2013-14.

3. The record shows that the initial notice under Section 148 of the Income Tax Act, 1961 [in short, "Act"], which was issued to the petitioner, is dated 22.04.2021.

4. Mr Prakash Kumar Sinha, learned counsel, who appears for the petitioner, says that the reassessment proceeding triggered against the petitioner is flawed, *inter alia*, for the following reasons :

(i) First, the proceeding is time-barred.

(ii) Second, the charged levelled against the petitioner, that it is a beneficiary of bogus accommodation entries, is clearly unsustainable. It is pointed out, in this regard, the respondent/ revenue referred to an entity going by the name, Garg Traders and Supplies, and alleged that the petitioner has availed of an accommodation entry amounting to Rs. 77,80,310/-, during the relevant period.

4.1 It is stated that during scrutiny assessment, enquiries were made, *inter alia,* with regard to all purchases made by the petitioner which were above Rs. 5,00,000/-, which included the purchases made by the petitioner from Garg Trader and Suppliers. In this regard, our attention has been drawn to Pages 61 and 71 of the case file. Insofar as Page 71 is concerned, our attention is drawn specifically to the reference made to Garg Traders and Suppliers against serial no. 32. It is noticed that the amount entered against the said entity is Rs. 77,80,310/-. The record shows that order dated 11.01.2016 was passed under Section 143(3) of the Act.

5. Accordingly, issue notice.

5.1 Mr Abhishek Maratha, senior standing counsel, accepts notice on behalf of the respondent/ revenue.

6. Mr Maratha points out that petitioner had not responded to the notice dated 19.05.2022, issued to the petitioner under Section 148A(b) of the Act.

7. Given this position, we are of the view that since the Assessing Officer (AO) did not have the benefit of the petitioner's response to

the notice issued under Section 148A(b) of the Act, the best way forward would be to set aside the impugned order dated 16.07.2022 passed under Section 148A(d) of the Act.

7.1 Accordingly, the said order is set aside.

7.2 The petitioner is granted three weeks to file a reply to the notice dated 19.05.2022 issued under Section 148A(b) of the Act.

7.3 The AO will grant a personal hearing to the petitioner, and thereafter, if found necessary, take next steps in law.

8. It is made clear that the AO will take into account the submissions made before us by the petitioner that the issue flagged in the Section 148A(b) notice was subject matter of the scrutiny assessment order dated 11.01.2016, passed under Section 143(3) of the Act.

9. Needless to add, if the petitioner is aggrieved by the order, if any, passed by the AO, it will have liberty to take recourse to an appropriate remedy, *albeit,* as per law.

10. Accordingly, this writ petition and the pending application stands disposed of.

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

(RAJIV SHAKDHER)
JUDGE

(GIRISH KATHPALIA)
JUDGE

MAY 15, 2023/v

Click here to check corrigendum, if any