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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Decision delivered on: 18.05.2023

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W.P.(C) 6621/2023 CM APPLS. 25996/2023 & 25997/2023

RACHNA GUPTA

..... Petitioner

Through: Mr Pranay Mohan Govil & Ms Ritambhara
Narang, Advs.

versus

INCOME TAX OFFICER WARD & ORS.

..... Respondent

Through: Mr Sanjay Kumar, Sr. Standing Counsel,
Ms Hemlata Rawat and Easha Kadian (Jr.
Standing Counsels).

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

18.05.2023

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

RAJIV SHAKDHER, J. (ORAL):

1. Issue notice.
- 1.1 Mr Sanjay Kumar, learned senior standing counsel, accepts notice on behalf of the respondents/revenue.
2. In view of the directions that we propose to pass, Mr Kumar says that he does not wish to file a counter-affidavit in the matter, and he will argue the matter based on the record as is presently available to the court.
- 2.1 Therefore, with the consent of learned counsel for the parties, the writ petition is taken up for hearing and final disposal, at this stage itself.
3. This writ petition concerns Assessment Year (AY) 2017-18.
4. The petitioner has assailed the notice dated 23.05.2022 issued under Section 148A(b) of the Income Act, 1961 [in short, "Act"].
- 4.1 Besides this, challenge is also laid to the order dated 20.07.2022 passed under Section 148A(d) of the Act.
- 4.2 In addition thereto, petitioner has laid a challenge to the consequential notice of



event dated, i.e., 20.07.2022, issued under Section 148 of the Act.

5. It appears that thereafter, show cause notice dated 17.04.2023 was issued by the respondent no.1, followed by another show cause notice dated 02.05.2023 issued by respondent no.4.

5.1 The respondent no. 4 also dispatched an email dated 10.05.2023, whereby notice of hearing was provided to the petitioner.

6. To be noted that these show cause notices issued by respondent no.1 and 4 and the email referred to above are also assailed by the petitioner.

7. Although the petitioner has challenged the whole bunch of notices and the order passed under Section 148A(d) of the Act, as set out hereinabove, the principal issue which has come to the fore is the misalignment in the allegation made in the notice issued under Section 148A(b), and the case related information details (CRID).

8. In the body of the notice dated 23.05.2022 issued under Section 148A(b) of the Act, it is broadly alleged that the petitioner has taken an accommodation entry amounting to Rs. 44,50,985/- through an entry provider in the financial year 2016-17 (AY 2017-18).

9. It is alleged that the entry provider is one, Mr Pankaj Goel, and that the aforementioned accommodation entry has been provided by him *via* an entity going by the name Asian Bulls Capital Private Limited (ABCPL).

10. The allegation is that the petitioner has dealt with ABCPL in connection with the shares of two companies, i.e., Shreyas Shipping and Logistics Limited, and Uniply Industries Limited.

11. It is the stand of the respondents/revenue that the equity shares, which were involved, numbered 10,180 insofar as Shreyas Shipping and Logistics Limited was concerned, and that the equity shares involving Uniply Industries Limited were 3000 in number.

12. Record shows that the petitioner had filed a response dated 22.06.2022, wherein she had taken broadly the following defences:

“a) Name of the assessee is not matched in Case Related Information Details and Notice issued u/s 48A(2) to the assessee.

b) Value of Information as per Notice dated 23.05.2022 is Rs. 44,50,985/- however as per Case related information Value of



Information is just Rs. 12,76,000.00 hence the value of information also not correct.

c) Your self has not provided any reports/statement (on Page 2 of attachment) as mentioned in General documents of Case related information details. Hence complete information are not provided.

d) As per remarks of CRID "The Share Price of Unlisted Company were arrived after market research.....". However I have not dealt with any unlisted company's share. Relevant para reproduced herewith:

Information Details							
S. N.	Source PAN	Source PAN Name	Information FY	Information Type	Information Value	Information Date	Remarks
1	AAHCA 2564P	Asian Bulls Capital Private	2016-17	Fictitious Purchases	12760000		The share price of unlisted company were arrived after market research. It is to be noted that the exact value of unlisted shares cannot be ascertained.

13. The core of the petitioner's defense is that the CRID which is appended to the notice dated 23.05.2022 issued under Section 148A(b) of the Act, does not align with what is indicated in the body of the notice.

14. This, on the face of it, appears to be correct. It appears that the CRID which has been furnished to the petitioner, along with the notice dated 23.05.2022, does not concern the petitioner.

15. The CRID in fact refers to one Mr Rahul Dureja, although we are told that the PAN referred to therein concerns the petitioner.



16. Given this circumstance, according to us, the best way forward would be to set aside the order dated 20.07.2022 issued under Section 148A(d) of the Act.

16.1 It is ordered accordingly.

17. Consequently, the notice dated 20.07.2022 issued under Section 148A(b) of the Act ,and other show cause notices, as indicated above, will collapse.

18. Liberty is, however, given to the Assessing Officer (AO) to carry out a *de novo exercise*.

19. However, before the AO carries out a *de novo* exercise, he will furnish the material information which concerns the petitioner.

20. The AO will also give opportunity to the petitioner to respond to the material furnished.

21. Furthermore, the AO will also accord a personal hearing to the petitioner and/or her authorized representative.

22. Needless to say that the AO will pass speaking order, a copy of which will be furnished to the petitioner.

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

24. Consequently, the pending applications shall stand closed.

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

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

MAY 18, 2023/RV

Click here to check corrigendum, if any