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

% ***Date of decision: 01.06.2023***

\+ **W.P.(C) 8068/2023**

PRIME ASSET RECONSTRUCTION COMPANY LIMITED

..... Petitioner

Through: Ms Smriti Sahay, Advocate.

versus

CENTRAL BOARD OF DIRECT TAX & ORS. ..... Respondents

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

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 APPL. 31047/2023

1. Allowed, subject to just exceptions.

W.P.(C) 8068/2023 and CM APPL. 31046/2023 ***[Application filed on behalf of the petitioner seeking interim relief]***

2. Issue notice.

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

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

3.1 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.

4. This writ petition seeks to challenge the assessment order dated 03.05.2023 passed under Section 143(3) read with Section 147 and 144B of the Income Tax Act, 1961 [in short, "Act"].

4.1 In addition thereto, challenge is also laid to the demand notice of even date i.e., 03.05.2023 issued under Section 156 of the Act.

4.2 Besides this, the petitioner has also laid challenge to the following notices and order:

(i) Notice dated 24.05.2021 issued under Section 148A(b) of the Act.

(ii) Letter dated 30.05.2022 issued under Section 148A(b) of the Act.

(iii) Order dated 25.07.2022 passed under Section 148A(d) of the Act.

(iv) Consequential notice dated 25.07.2022 issued under Section 148 of the Act.

5. Ms Smriti Sahay, who appears on behalf of the petitioner, says that prior to the impugned assessment order being passed, a show-cause notice dated 03.03.2023 was issued, proposing variation in income sought to be taxed. It is pointed out, that the petitioner was called upon to respond to the said show-cause notice by 10.03.2023.

5.1 Ms Sahay says, that a detailed reply dated 04.04.2023 was submitted by the petitioner, wherein *inter alia*, a request was made for grant of hearing, *albeit via* video-conferencing (VC).

5.2 Ms Sahay submits, that while passing the assessment order, the reply filed by the petitioner has not been taken into account. It is also submitted by Ms Sahay, that the hearing was not granted, despite a request being made in that behalf by the petitioner.

6. The record, as presently available with the Court, establishes that neither the reply filed by the petitioner was taken into account, nor was hearing granted to the petitioner.

7. Therefore, according to us, the best way forward would be to set aside the assessment order, and relegate the petitioner to the stage of show-cause notice dated 03.03.2023, and the reply filed *qua* the said notice.

7.1 It is ordered accordingly.

8. The Assessing Officer (AO) will issue a notice to the petitioner, indicating the date and time of hearing. The AO will permit the petitioner to be represented by an authorised representative.

9. Needless to add, the AO will pass a speaking order, which will deal with the contentions raised by the petitioner in the reply dated 04.04.2023. A copy of the order will be furnished to the petitioner.

10. The writ petition is disposed of in the aforesaid terms.

11. Consequently, pending application shall also stand closed.

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

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

JUNE 1, 2023/ tr