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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision:02.06.2023

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W.P.(C) 8204/2023

JAGANNATH HALDAR THROUGH THE POWER OF ATTORNEY
HOLDER

.....Petitioner

Through: Ms Pankhuri Shrivastava, Mr RupeshKumar
and Mr Atreya G.C, Advocates.

versus

PRINCIPAL CHIEF COMMISSIONER OF INCOME TAX, INTERNATIONAL
TAXATION, NEW DELHI & ORS.

..... Respondents

Through: Mr Prashant Meherchandani, 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)

CM APPL. 31483/2023

1. Allowed, subject to just exceptions.

W.P.(C) 8204/2023 & CM APPL. 31482/2023 *[Application filed on behalf of the
petitioner seeking interim relief].*

2. Issue notice.

2.1 Mr Prashant Meherchandani, learned senior standing counsel accepts notice on
behalf of the respondents/revenue.

3. The substantial prayers made in the writ petition read as follows:

*(i) issue writ, order or directions in the nature of certiorari, quashing
and setting aside the impugned DIN & Order No. ITBA/AST/F/148A
(SCN) 2022-23/ 1051375040(1) dated 27.03.2023 passed under Section
148A(d) of the Income Tax Act 1961;*

*(ii) issue writ in the nature of prohibition commanding Respondents to
forbear from giving effect to and/or taking any step whatsoever pursuant
to and/or in furtherance of the impugned DIN & Order No.
ITBA/AST/F/148A (SCN) 2022-23/ 1051375040(1) dated 27.03.2023
passed under Section 148A(d) of the Income Tax Act 1961 and/or in any
proceedings initiated thereunder for the Assessment Year 2016-17;*



(iii) issue appropriate writ, order or direction, setting aside impugned Notice under Section 148 of the Income Tax Act 1961 dated 27.03.2023 being DIN & Notice No. ITBA/AST/S/148_1/2022-23/1051379517(1) issued as a consequence of prayer (a) above by declaring the said Notice to have been issued without jurisdiction;

4. Ms Pankhuri Shrivastava, learned counsel for the petitioner says, that there has been a breach of principles of natural justice, inasmuch as the petitioner's reply was not taken into account by the Assessing Officer (AO) while passing the order dated 27.03.2023 under Section 148A(d) of the Income Tax Act, 1961 [in short, "the Act"].
5. In the course of hearing, counsel for the petitioner has, in fact, also placed before us, a hard copy of the e-mail dated 14.03.2023.
6. Mr Prashant Meherchandani, learned senior standing counsel who appears on behalf of the respondent/revenue says that, perhaps, the best way forward would be to remand the matter.
7. Accordingly, the impugned order dated 27.03.2023 passed under Section 148A(d) of the Act is set aside. Liberty is, however, given to the AO to pass a fresh order, after according a personal hearing to the petitioner and/or his authorised representative. The AO will also take into account the reply filed by the petitioner. Needless to add, the AO will pass a speaking order; a copy of which will be furnished to the petitioner.
8. The Registry will scan and upload the e-mail dated 14.03.2023, so that it remains embedded in the case file.
9. The writ petition is disposed of in the aforesaid terms.
10. Consequently, pending application shall stand closed.
11. Parties will act based on the digitally signed copy of the order.

(RAJIV SHAKDHER)
JUDGE

(GIRISH KATHPALIA)
JUDGE

JUNE 2, 2023/v

Click here to check corrigendum, if any