



\$~35

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

%

Decision delivered on: 21.07.2023

+

W.P.(C) 9606/2023 & CM Nos.36805-06/2023

STANDARD CHARTERED BANK UK

..... Petitioner

Through: Mr Percy Pardiwalla, Sr Adv. with
Mr Madhur Agarwal, Mr Prabal
Mehrotra, Mr Ashish Mehta and Mr
Shubhankar, Advs.

versus

ASSISTANT COMMISSIONER
OF INCOME TAX & ORS.

..... Respondents

Through: Mr Sunil Agarwal, Sr Standing
Counsel with Mr Shivansh B. Pandya,
Standing Counsel and Mr Utkarsh
Tiwari, Adv. for Revenue.
Mr Vivek Sharma, Adv. for R-3/UOI.

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 No.36806/2023

1. Allowed, subject to just exceptions.

W.P.(C) 9606/2023 & CM No.36805/2023 [*Application filed on behalf of
the petitioner seeking interim relief*]

2. Issue notice.

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



3. Given the directions that we propose to issue, Mr Agarwal says that he need not file a counter-affidavit, 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 matter is taken up for hearing and final disposal, at this stage itself.

4. This writ petition concerns Assessment Year (AY) 2019-20.

5. The petitioner has, *inter alia*, assailed the following orders and notices:

(i) Notice dated 31.03.2023 issued under Section 148A(b) of the Income Tax Act, 1961 [in short, "Act"].

(ii) Order dated 03.05.2023 passed under Section 148A(d) of the Act.

(iii) Consequential notice dated 03.05.2023 issued under Section 148 of the Act.

6. The trigger for the initiation of the reassessment proceeding was the information/material received by the respondents/revenue that the petitioner, apparently, had received Rs.156,15,43,994/- in the form of other income and/or fees for technical services, from Vodafone Mobile Services Limited.

6.1 It is this information which led to the issuance of the notice dated 31.03.2023 under Section 148A(b) of the Act.

7. Pertinently, the petitioner was granted time till 28.04.2023 to file a response.

7.1 The record seems to disclose that a response was, indeed, filed by the petitioner on 26.04.2023.

8. *Inter alia*, the petitioner flagged two (2) significant aspects in its reply.

8.1 First, that the notice had been issued by an officer who had no



jurisdiction. It was pointed out that an assessment under Section 143(3) of the Act has been made *via* order dated 25.05.2022 by the ACIT, International Taxation, Circle 4(2)(2), Mumbai, whereas notice was issued by an officer located in New Delhi, i.e., respondent no.1.

8.2 Second, the information and material based on which the notice was issued had not been furnished to the petitioner. It appears that respondent no.1 passed an order dated 03.05.2023 under Section 148A(d) of the Act, without having regard to the reply dated 26.04.2023 filed by the petitioner.

9. Given this backdrop, what emerges is that the Assessing Officer (AO) ought to have dealt with the reply, for whatever it was worth.

10. The AO having not dealt with the reply, we are inclined to set aside the order dated 03.05.2023, and the consequent notice of even date, i.e., 03.05.2023, issued under Section 148 of the Act.

11. Liberty is, however, given to the AO to pass a fresh order. However, before the AO proceeds to pass a fresh order, he will furnish to the petitioner the information/material that he has in his possession.

11.1 This information would be supplied to the petitioner within two (2) weeks from the date of receipt of a copy of the judgment rendered today.

12. The petitioner would be given time to file a response in light of the material/information, if any, furnished to it.

12.1 For this purpose, the AO will grant a suitable timeframe to the petitioner.

13. The AO will also accord personal hearing to the authorized representative of the petitioner.

13.1 In this regard, a notice will be issued, fixing the date and time of hearing.



14. Needless to add, the AO will pass a speaking order; a copy of which will be furnished to the petitioner.
15. The writ petition is disposed of, in the aforesaid terms.
- 15.1 Consequently, the pending interlocutory application shall stand closed.
16. Parties will act based on the digitally signed copy of the judgment.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

JULY 21, 2023

aj