IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/445/2024
Choudhary Fincon LLP
Versus
Union of India & Ors.

BEFORE
The Hon'ble Justice RAJA BASU CHOWDHURY
Date: 4th July, 2024.

Ms. Pooja Jewrajka, Adv.
...for the petitioner
Mr. Amit Sharma, Adv.
...for the respondents

THE COURT: 1. The present writ petition has been filed, inter alia, challenging the show cause notice issued under Section 148A(b) of the Income Tax Act, 1961 (hereinafter referred to as the "said Act") dated 28th March, 2024 in respect of the assessment year 2017-18 as also the order dated 19th April, 2024, passed under Section 148A(d) of the said Act.

2. It is the petitioner's case that the notice under Section 148A(b) of the said Act does not disclose appropriate particulars.

3. Ms. Jewrajka, the learned Advocate representing the petitioner by drawing attention of this court to the notice under Section 148A(b) of the said Act submits that apart from the disclosure made in the form of enclosure to the said notice, no other particulars have been provided. From the documents enclosed to the said notice it would appear that the information available with the respondents suggest that the petitioner had credited unexplained sums of

Rs.86,50,000/- in the petitioner's bank account during the financial year 2016-17 relating to the assessment year 2017-18 through accommodation entries. Apart from the aforesaid, no other particulars have been disclosed.

4. In the aforesaid circumstances, the petitioner, by its reply dated 12th April, 2024 had sought for particulars of the information based on which the aforesaid Show Cause Notice had been issued. According to the petitioner, notwithstanding the aforesaid, the authorities by ignoring the petitioner's contention has purportedly disposed of the said proceeding by passing an order under Section 148A(d) of the said Act dated 19th April, 2024. The said order is the subject matter of challenge in the present writ petition.

5. Having regard to the aforesaid, on the previous occasion when this matter was taken up for consideration, this Court had permitted the respondents to obtain necessary information whether any disclosure apart from the annexure to the notice under Section 148A(b) of the said Act dated 28th March, 2024 for the assessment year 2017-18 had been made.

6. Today, Mr. Sharma, learned advocate representing the respondents, on instructions, submits that no other disclosure apart from the annexure disclosed to the said notice has been made. He also does not deny the factum of the petitioner seeking necessary information by issuing communication dated 12th April, 2024.

7. It may be noticed that in the order issued under Section 148A(d) of the said Act, the jurisdictional assessing officer has, despite

acknowledging the letter dated 12th April, 2024, has brushed aside the same, inter alia, on the ground that the request for supply of such information was made after fifteen days from the date of receipt of notice under Section 148A(b) of the said Act.

8. In this context, it may be relevant to note that the notice issued under Section 148A(b) of the said Act permitted the petitioner to submit its response within 12th April, 2024. The request for supply of additional information was made by the petitioner within the time specified hereinabove. As such, the same ought not to have been overlooked by the jurisdictional assessing officer.

9. Having regard to the aforesaid and having considered the materials on record, inter alia, including the submissions made by the learned advocates for the respective parties, it would appear that the petitioner has been denied the opportunity to appropriately respond to the aforesaid show cause notice issued under Section 148A(b) of the said Act dated 28th March, 2024 for the assessment year 2017-18 since, the very basis of information based on which the show cause notice was issued had not been disclosed. Non disclosure of the information by glossing over the request made in the letter dated 12th April, 2024 on the ground that request was made after waiting for 15 days appears to violative of the principles of natural justice. On the aforesaid ground the order dated 19th April, 2024 stands vitiated.

10. In view thereof, the aforesaid order dated 19th April, 2024 passed under Section 148A(d) of the said Act for the assessment year 2017-18 cannot be sustained. The same is accordingly set aside.

11. The hearing of the show cause notice dated 28th March, 2024 is remanded back to the jurisdictional assessing officer with a direction upon the jurisdictional assessing officer to address the petitioner's request and to supply a gist of the information based on which the notice under Section 148A(b) of the said Act had been issued. The petitioner shall be at liberty to file its additional response within a period of seven days from the date of receipt of the additional materials, if any, to be disclosed by the jurisdictional assessing officer. The jurisdictional assessing officer, upon receipt of the response from the petitioner or on the failure of the petitioner to submit its response within the time specified, upon giving an opportunity of hearing to the petitioner shall dispose of the same. It is expected that the entire process shall be concluded within a period of eight weeks from the date of communication of this order.

12. Accordingly, WPO 445 of 2024 is disposed of on the above terms.

13. There shall be no order as to costs.

All parties including the jurisdictional assessing officer are to act on the server copy of this order duly downloaded from the official website of this Court.

(RAJA BASU CHOWDHURY, J.)

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