**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CWP-2732-2005
Decided on : 28.11.2024**

Beenu Khanna

. . . Petitioner(s)

Versus

Assistant Commissioner of Income Tax, Central Circle-IV,
Amritsar and another

. . . Respondent(s)

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH**

PRESENT: Mr. Akshay Bhan, Sr. Advocate with
Mr. Yugank Goel, Advocate, for the petitioner(s).

Mr. Saurabh Kapoor, Addl. AG, Punjab.

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SANJEEV PRAKASH SHARMA, J. (Oral)

1. While issuing notice on 22nd February 2025, the question, which was required by this Court for consideration was whether the assessing authority can issue notice for re-assessment on the basis of the disclosure made before the Settlement Commission after similar proceedings initiated earlier were filed, albeit without assigning reasons.

2. Learned Senior Counsel appearing for the petitioner submits that the petitioner had submitted her return for the Assessment Year (A.Y.) 2000-2001 on 22nd March 2001, under Section 143(1) of the Income Tax Act, 1961 (for brevity, 'IT Act'), wherein she disclosed the said amount as a loan that remained undisclosed earlier, having been received from M/s Bee Bee International. .

Upon receiving notice under Section 148 of the IT Act, the petitioner filed an application under Section 245-C(1) of the IT Act, on 4th

February 2003, before the Settlement Commission, wherein, the petitioner disclosed the alleged claim of receipt of loan of Rs.15,75,000/-, through account payee cheques from M/s Bee Bee International.

3. The settlement Commission, after receiving the report from the CIT, in terms of Section 245-C (1) of the IT Act, found that the amount of Rs.15,75,000/-, were accommodation entries. Considering the same, it proceeded to reject the application for settlement on the ground that the applicant had not made full and true disclosure of her income, vide its order dated 16th February 2004. The order passed by the Settlement Commission has not been challenged further.

4. It appears that thereafter, although reasons are not reflected, the earlier notice issued under Section 148 of the IT Act, and proceedings of the re-assessment were filed by the Assessing Officer on 29th April 2004. Thereafter, notice under Section 148 of the IT Act was issued on 21st June 2004 by the Assessing Officer.

5. The question arises whether a second notice under Section 148 of the IT Act, could have been issued after the filing of the earlier re-assessment proceedings. In our opinion, the language of Section 148 of the IT Act, does not in any manner restrict the Assessing Officer to issue notice afresh, after filing of the earlier proceedings, provided the same is within the limitation period, if any.

6. We noticed that in the present case, the petitioner had filed a return earlier under Section 143(1) of the IT Act, after the notices were issued to her under under Section 148 of IT Act, revised return was not filed showing undisclosed income and the petitioner on the other hand proceeded to move applications for settlement stating that the said amount was a loan, as already reflected in her earlier return. Since the Settlement Commission ultimately reached to the conclusion that there is non-disclosure and also not full and true disclosure of her income at the time of moving her application for settlement, we can safely presume that the Assessing Officer derive a new cause of action to initiate proceedings under Section 148 of the IT Act afresh based on the observations of the Settlement Commission of not providing full and true disclosure.

7. We also noticed that the reasons which were provided by Assessing Officer to initiate proceedings under Section 148 of the IT Act earlier, reflected about the receiving of drafts aggregating to Rs.11,00,000/- from Bank account of M/s AG Exports, whereas, the petitioner impugned the notice issued under Section 148 of the IT Act, by the Assessing Officer.

However, on query being raised to the assessee, the Assessing Officer also demanded the assessee to provide details relating to the loan, stated to have been accepted from M/s Bee Bee International in the subsequent notice, which have been issued now under Section 148 of the IT Act, the respondents have provided reasonings for reopening of the assessment under Section 148 of the IT Act for A.Y. 2000-2001, with regard to the non-disclosure of income, which has been found to be by way of accommodation entries, a sum of Rs.15,75,000/-.

Thus, we find that the objections raised with regard to the fresh re-assessment are without any basis and the action taken by the respondents cannot be said in any manner to be unjustified.

8. We, therefore, recall our interim order dated 18th May 2005 and direct the respondents to continue and pass final assessment order on the basis of re-assessment proceedings initiated under the notice dated 21.06.2004. In this regard, the provisions of the issuing of notice to the assessee for final assessment, would have to be issued in terms of the provisions of law, as they stood at the relevant time.

The matter is pending since 2005, thus, it is expected that the Assessing Officer shall decide the same expeditiously, preferably, within a period of three months.

Writ petition is dismissed.

Misc. application(s), if any, also stands disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

November 28, 2024
J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No