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

\+ W.P.(C) 9651/2024

RAMAN KANTA .....Petitioner

Through: Mr. Mani Bhadra Jain & Mr. Sameer Sharma, Advs.

versus

INCOME TAX OFFICER & ANR. .....Respondents

Through: Mr. Debesh Panda, SSC with Ms. Zehra Khan, Mr. Vikramaditya Singh & Ms. Anauntta Shankar, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

O R D E R

% 16.07.2024

CM APPL. 39643/2024 (Exemption)

Allowed, subject to all just exceptions.

This applicant stands disposed of.

W.P.(C) 9651/2024 & CM APPL. 39642/2024 (Interim Relief)

1. This writ petition has been preferred seeking the following reliefs:

> "A. Issue an appropriate Writ, Order or Directions in the nature of Certiorari or Mandamus thereby setting aside the Notice dated 10.04.2024 under section 148 of the Income Tax Act, 1961 for the A.Y. 2020-2021 issued by the Respondent No. 1 to the petitioner.
>
> B. Issue an appropriate Writ, Order or Directions in the nature of Certiorari or Mandamus thereby setting aside the order dated 10.04.2024 under section 148A(d) of the income tax act, 1961 for the A.Y.2020-2021 issued by the Respondent No. 1 to the petitioner.

C. Pass any other appropriate relief, which this Hon'ble Court deem just and proper in the facts and circumstances of the case, may kindly be passed in favour of the humble petitioner."

2. The proposed action for reassessment came to be initiated pursuant to a notice dated 26 March 2024 issued under Section 148A(b) of the Income Tax Act, 1961 ["**Act**"] and relating to Assessment Year ["**AY**"] 2020-21.

3. As is manifest from a perusal of the record placed before us, the petitioner furnished a detailed reply dated 03 April 2024 where apart from assailing the proposed assumption of jurisdiction, the various entries were also copiously explained.

4. However, all that has been observed by the Assessing Officer ["**AO**"] while proceeding to pass the order under Section 148A(d) and dealing with the reply of the assessee is as under:

> "**3.** The available information is explicit and clearly suggests that during the relevant previous year, the assessee had income chargeable to tax and has escaped assessment. As the information was self-sufficient, it was considered that further enquiries u/s 148A(a) of the I.T. Act were not required. Therefore, in accordance with section 148A(b) of the I.T. Act, an opportunity of being heard was provided to the assessee vide notice u/s 148A(b) of the I.T. Act, 1961 on 26.03.2024. The said notice was issued requiring it to furnish the relevant details along with supporting documentary evidence with respect to the transactions as cited above on or before 03.04.2024. Vide the above said notice the assessee was also asked as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in this case for the A.Y. 2020-21.
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> In response the above mentioned notice assessee has submitted his reply on 03.04.2024. The reply of the assessee has been considered but not found maintainable. The salary income of the assessee is not matched with information available on record. Further, the reply filed in respect of sales of the properties is not fully matched in absence of complete documents. Thus, reply filed has not been found satisfactory and acceptable."

5. It is thus manifest that there has been an abject failure on the

part of the AO to either examine or consider the objections that were submitted. The AO has for reasons unknown and unfathomable merely observed that the response of the petitioner has not been found to be maintainable. The order under Section 148A(d) as well as the consequential notice under Section 148 of the Act are thus liable to be set aside on this short score alone.

6. We, accordingly, allow the instant writ petition and set aside the order under Section 148A(d) as well as the consequential notice, both dated 10 April 2024. The matter shall stand remitted to the AO who shall examine the reply of the petitioner afresh and pass a reasoned and speaking order. All rights and contentions of respective parties are kept open. The AO may also consider any request for personal hearing that may be made by the petitioner.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

JULY 16, 2024/kk