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

\+ W.P.(C) 16908/2024 and CM APPLs. 71618-19/2024

ANISH MALHOTRA .....Petitioner

Through: Vikas Jain with Mr Aviral Saxena, Mr Shrawani and Mr Hardik Jayal, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX AND ANR CIRCLE 43 1 DELHI .....Respondents

Through: Mr Anant Mann, Advocate.

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

O R D E R

% **06.12.2024**

1. Issue notice. The learned counsel for the respondents accept notice.

2. The petitioner has filed the present petition *inter alia* impugning a notice dated 28.08.2024 (hereafter *impugned notice*) issued under Section 148 of the Income Tax Act, 1961 (hereafter *the Act*) for the Assessment Year (AY) 2018-19. The aforesaid impugned notice was preceded by a notice dated 13.08.2024 issued under Section 148A(b) of the Act as well as an order dated 28.08.2024 under Section 148A(d) of the Act (hereafter *impugned order*). Apart from the other contentions, the petitioner's case is that he had no opportunity to reply to the notice issued under Section 148A(b) of the Act as it was e-mailed to a wrong e-mail ID. The impugned order under Section 148A(d) of the Act has been passed without considering the petitioner's response to the information which according to the

Assessing Officer (AO) was suggestive of petitioner's income escaping assessment.

3. The learned counsel appearing for the Revenue fairly states that the petitioner's grievance in this regard can be addressed if the petitioner is granted yet another opportunity to respond to the notice under Section 148A(b) of the Act.

4. In view of the aforesaid submissions, we consider it apposite to set aside the impugned notice and the impugned order issued under Section 148 and 148A(d) of the Act and restore the matter before the AO. The petitioner is at liberty to file a response to the notice dated 13.08.2024 issued under Section 148A(b) of the Act within a period of one week from date. The learned AO shall consider the petitioner's response and pass an appropriate order in accordance with the law.

5. It is clarified that all the rights and contentions of the parties are reserved.

6. The writ petition is disposed of in the aforesaid terms. Pending applications shall also stand disposed of.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

DECEMBER 06, 2024/tr

Click here to check corrigendum, if any