



\$~110

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

+ **W.P.(C) 17300/2024**

ABHISHEK BANSAL

.....Petitioner

Through: Mr. Shahrukh Ejaz, Mr. Abhishek
Kukkar, Ms. Palak Singh Parihar and
Ms. Jahnvi Singh, Advocates

versus

INCOME TAX OFFICER, WARD 58(3), DELHIRespondent

Through: Mr. Gaurav Gupta, Senior Standing
Counsel with Mr. Shivendra Singh
and Mr. Yojit Pareek, Advocates.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

16.12.2024

%

CM APPL. 73634/2024

1. Exemption allowed subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 17300/2024 & CM APPL. 73633/2024 (Interim Relief)

3. The petitioner has filed the present petition impugning a notice dated 21.03.2024 passed under section 148A(b) of the Income Tax Act, 1961 (hereafter *the Act*) as well as an order dated 30.03.2024 passed under Section 148A(d) of the Act. Additionally, the petitioner also impugns a notice dated 30.03.2024 issued under Section 148 of the Act.
4. The petitioner's challenge to the aforesaid notices and the order is



premised on the basis that the petitioner was not granted seven days to file a response to the notice issued under Section 148A(b) of the Act. The said notice was issued on 21.03.2024 and the petitioner was provided seven days to respond to the same. However, three days out of seven days were holidays and, therefore, the petitioner claims that he did not get seven working days to respond to the said notice.

5. A plain reading of the notice issued under Section 148A(b) of the Act indicates that the Assessing Officer (AO) had information to the effect that the petitioner had made purchases from an individual named Shri Ajay Gupta, sole proprietor of M/s Gupta Paper Marts of a value of ₹72,25,879/. Shri Ajay Gupta was a non-filer during the relevant period and had not responded to the summons issued to him. According to the information, Shri Ajay Gupta was not a genuine entity and payments received in the bank account of Shri Ajay Gupta were withdrawn in cash.

6. The petitioner had filed his return for the assessment year (AY) 2020-21 declaring a total income of ₹5,33,540/- and the AO was of the view that the said return was not commensurate with the reported transactions entered into by the petitioner.

7. Although the petitioner claims that he did not have sufficient time to respond to the said notice, the petitioner did respond to the said notice on 29.03.2024. The petitioner's response is also noted by the AO in his order dated 30.03.2024.

8. A copy of the said reply has not been annexed with the said petition. However, the learned counsel for the petitioner has referred to the order dated 30.03.2024 issued under Section 148A(d) of the Act, which records the response furnished by the petitioner. The same indicates that the



petitioner had claimed that the purchases made from Shri Ajay Gupta were genuine purchases and had also produced a copy of ledger account; a copy of confirmation of balance in the books of the petitioner; a copy of purchase invoices; and a copy of bank statement reflecting the payments made to M/s Gupta Paper Marts.

9. The documents provided by the petitioner would establish that the payments had been made to Shri Ajay Gupta through banking channels. However, the same does not address the allegation of purchases reflected were accommodation entries. It is well settled that the accommodation those entries are entries where payments are made through banking channels but the same are not against any genuine commercial transaction and are compensated by reverse payments in cash.

10. In the present case, the petitioner was required to clearly show the movement of goods to establish that the goods had in fact moved from Shri Ajay Gupta to the petitioner. However, it does not appear that any such information was provided by the petitioner to the AO.

11. The AO, after taking note of the response submitted by the petitioner, issued an order holding that it was a fit case for issuance of notice under Section 148 of the Act. The AO had also noted that the Goods and Service Tax Identification Numbers (GSTIN) of the said dealer (Ajay Gupta) had been cancelled as the concerned authorities had found that the said entities were not involved in actual business activities but were mere shell entities.

12. It is also relevant to note that after issuance of notice under Section 148 of the Act, the AO had also issued notices under Section 142(1) of the Act and the reassessment proceedings are being conducted. The petitioner has also filed his response to the said notices.



However, as noted above, the petitioner did in fact file his reply within the specified period and, therefore, he cannot make any grievance at this stage of not being provided sufficient time to do so.

17. The petition is unmerited and is, accordingly, dismissed. Pending applications are also disposed of.

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

DECEMBER 16, 2024
yrj

Click here to check corrigendum, if any