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

% *Date of Decision: 17.04.2025*

+ **W.P.(C) 6425/2023**

UMESH CHANDRA SHARMA .....Petitioner
Through: Mr Vivek Bansal, Mr Kunwar Rajan and Mr Akkash Bhadana, Advocates.

versus

THE INCOME TAX OFFICER, WARD 47(1) DELHI & ORS. .....Respondents
Through: Mr Siddhartha Sinha, Advocate.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

VIBHU BAKHRU, J.

1. The petitioner [**Assessee**] has filed the present petition impugning a notice dated 06.03.2023 issued under Section 148A(b) of the Income Tax Act, 1961 [**the Act**]; an order dated 21.03.2023 passed under Section 148A(d) of the Act; and the consequential notice dated 21.03.2023 issued under Section 148 of the Act by respondent no.1 [Assessing Officer – **AO**] in respect of the assessment year [**AY**] 2016-17.

2. The Assessee (Sh. Umesh Chandra Sharma) is an individual and was allotted Importer-Exporter Code [IEC] No. 0589013629 by the Deputy Director General of Foreign Trade on 01.04.1989 in connection with the Permanent Account Number [**PAN**] AREPS2819J and since that date, all the export transactions made by the Assessee are regulated under the said IEC number. Consequently, IEC No. 0589013629 has no connection whatsoever with PAN AABPS3614F.

3. It is the Assessee's case that he has been regularly filing his return of income from AY 2010-11 to AY 2022-23 under the PAN AREPS2819J. The Assessee filed his return of income for the relevant assessment year [AY 2016-17] on 23.03.2017, declaring a total income of ₹5,17,990/-.

4. The Assessee's return for AY 2016-17 was selected for reassessment on the basis that there was an information available on the insight portal that high value transaction of ₹1,19,95,668/- was made by the Assessee. The Assessing Officer [**AO**] issued a notice dated 06.03.2023 under Section 148A(b) of the Act [DIN and Notice No. ITBA/AST/F/148A(SCN)/2022-23/1050468933(1)] under PAN AABPS3614F, notwithstanding that the Assessee had consistently filed all his returns under PAN AREPS2819J.

5. In response to the aforesaid notice, the Assessee submitted a detailed reply by e-mail on 15.03.2023, drawing the AO's attention to the correct PAN registration. the Assessee expressly stated that he has never used PAN AABPS3614F since 2011 and that all his filings were made under PAN AREPS2819J. To substantiate this claim, the Assessee furnished copies of the Goods and Services Tax [**GST**] Registration Certificate and the IEC Certificate. The Assessee further disclosed that he effected exports totalling ₹63,11,609.70 and submitted a manually prepared Excel working sheet detailing these transactions.

6. The Assessee also claimed that his actual export turnover during the previous year relevant to AY 2016-17 amounted to ₹63,11,609.70 and not ₹1,19,95,668/- as alleged by the AO. He explained that the Department's reliance on the inflated figure stemmed from a clerical error in the Shipping

Bill dated 08.10.2015, which was subsequently corrected by the Customs Authorities through a specific amendment order. As the figure of ₹1,19,95,668/- has been officially expunged and no longer exists in the records, the same could not form the basis for the assumption that the Assessee's income had escaped assessment.

7. The AO passed an order under Section 148A(d) on 21.03.2023, holding that it was a fit case to issue a notice under Section 148 of the Act. On the same day, that is 21.03.2023, the AO issued a notice under Section 148 of the Act, alleging that income chargeable to tax had escaped assessment and directed the Assessee to furnish a return within 30 days from the date of service of the notice.

8. On 17.04.2023, the Assessee made a representation to the Principal Commissioner of Income Tax-10, New Delhi [**PCIT**], enclosing all relevant documents for AY 2016-17 and requesting that the reassessment proceedings be dropped. The Assessee contended that the AO had erred in initiating the reassessment proceedings by relying on an incorrect information. It is his case that the AO had referred to the information relating to the income that was disclosed and surrendered to tax by the Assessee under his PAN (AREPS2819J) and issued the notice on the premise that the said income has not been disclosed in any filing under PAN AABPS3614F.

9. The learned counsel appearing for the Revenue contended that the AO was not precluded from initiating reassessment proceedings in relation to an assessee's income under a PAN which was different from that used by the assessee for filing his returns, if there was evidence that the second PAN had

been employed in a manner so as to evade tax. It was also contended on behalf of the Revenue that the Assessee's case that he had not used his PAN AABPS3614F was incorrect. It is contended on behalf of the Revenue that the database of Central Board of Indirect Taxes and Customs [**CBIC**] reflects transactions under PAN AABPS3614F and, therefore, the same had been used by the Assessee for making shipments.

10. We have heard the learned counsel appearing for the parties.

11. A plain reading of the order dated 21.03.2023 issued under Section 148A(d) of the Act indicates that the Assessee's assessment was reopened on the basis of information that the Assessee had made exports under Shipping Bills aggregating ₹1,19,95,668/-. The AO reasoned that the said transaction would have generated taxable income which has escaped assessment, as the Assessee had not filed his return of income for the year under consideration (previous year relating to AY 2016-17).

12. The Assessee's contention that he had not made exports under IEC code that was linked to PAN AABPS3614F was rejected on the ground that the database of the CBIC indicated that exports had been made. The AO thus concluded that exports amounting to ₹1,19,95,668/- had neither been accounted for nor the income arising from the same was offered for taxation.

13. It is apparent that the controversy centers around whether the Assessee had, in fact, made exports under an IEC code, which is linked to PAN AABPS3614F. Whilst, the Assessee denies that he had made any such exports, the AO assumes that there is information to support that the Assessee had exported goods under shipping bills linked to the said PAN.

14. The fact that the Assessee has two PANs has the propensity to create certain amount of confusion. However, the principal issue to be addressed by the AO is whether the exports made by the Assessee have been duly accounted for by the Assessee in his return or whether there were exports made under a shipping bill that has not been included by the Assessee in his accounts. As noted above, the Assessee claims that he had not made any export under a shipping bill for an amount of ₹1,19,95,668/- under a code linked to PAN AABPS3614F.

15. It is apparent that if the matter is to proceed further on the suspicion entertained by the AO, the AO must examine the shipping bill in respect of which the income has allegedly escaped assessment. This is considering that the Assessee disputes that any such exports had been made by him. It is the Assessee's contention that the shipping bill in question had been manually corrected and thus he had made no exports under a code linked to PAN AABPS3614F. The AO must necessarily have some material to proceed further with his assumption that income pertaining to the shipping bill in question has escaped assessment. However, we do not find that the AO has addressed this issue in the order passed under Section 148A(d) of the Act.

16. In view of the above, the impugned order passed under Section 148A(d) of the Act is set aside. We consider it apposite to remand the matter to the AO to consider the Assessee's case that he has not made any export of goods under a code linked to PAN AABPS3614F. However, if the AO finds that there is any material which would establish otherwise, the AO may pass

a fresh order under Section 148A(d) of the Act within a period of four weeks from date.

17. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 17, 2025
'gsr' *Click here to check corrigendum, if any*