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20.01.26
Sl-14
Ct.551
(S.R.)

WPA 18470 of 2025

Basu Tea Pvt. Ltd. & Anr.
v.
The Union of India & Ors.

Mr. Himangshu Kumar Ray
Mr. Sushant Bagaria
Mr. Subhasis Podder
Mr. Gourav Chakraborty ... for the petitioners.

Mr. Soumen Bhattacharya
Mr. Madhu Jana
... for the Income Tax Department.

1. This writ petition assails an order dated April 8, 2024 passed under Section 148A(d) of the Income Tax Act, 1961 (hereafter the 'said Act of 1961') and the consequential notice issued on the same date under Section 148 of the said Act of 1961 whereby proceedings for reassessment of the petitioner' income for the assessment year 2017-18 have been initiated.
2. The petitioner no. 1 (hereafter "the petitioner") was initially issued a notice dated March 8, 2024 under Section 148A(b) of the said Act of 1961 calling upon the petitioner to show cause as to why should the petitioner's case not be reopened and the petitioner's income for the assessment year 2017-2018 be not reassessed on the ground of escapement thereof from assessment.
3. The petitioner did not reply to the said notice to show cause and as such, an order under Section

148A(d) of the said Act of 1961 came to be passed. The order was followed by a reopening notice under Section 148 of the said Act of 1961 issued on April 8, 2024. Assailing the said notice of reopening and the preceding order under Section 148A(d) of the said Act of 1961, the petitioners have approached this Court by way of the instant writ petition.

4. Mr. Ray, learned advocate appearing for the petitioner submits that all the notices and the order impugned i.e. the notices under Section 148A(b) of the said Act of 1961 followed by the order passed under Section 148A(d) of the said Act and the consequential notice under Section 148 of the said Act of 1961 have either only put up/uploaded on the portal or sent to the petitioner through an email ID which had been changed by the petitioner and is non-existent. It is submitted that the petitioner had informed the Revenue Authorities of the change in the email ID on October 31, 2023 and in fact, the changed email Id is also reflected in the last Income Tax Return filed by the petitioner for the assessment year 2023-24.

5. It is further submitted by Mr. Ray that the petitioner could not respond to the notice to show cause under Section 148(b) of the said Act of 1961 since the petitioner did not have knowledge thereof and, consequently, the petitioner could also not

participate in the proceedings prior to the issuance of the reopening notice under Section 148 of the said Act of 1961. Mr. Ray submits that since the proceeding has been concluded in violation of the principles of natural justice, the same should be set aside.

6. Mr. Bhattacharya, learned advocate appearing for the respondent Revenue Authorities invites the attention of this Court to Rule 127 of the Income Tax Rules, 1962 as well as a Notification dated September 12, 2019 issued by the Ministry of Finance, Department of Revenue (Central Board of Direct Taxes) and submits that service of notices and orders by uploading thereof on the portal is valid mode of service and the petitioner ought to have been vigilant enough to take note of the same. It is further submitted that since service through the portal has already been done, non-service of the notices and the order impugned through the changed email ID of the petitioner should not vitiate the proceedings.

7. Heard learned advocates appearing for the respective parties and considered the material on record.

8. Mr. Bhattacharya's submission that service of notice by uploading on portal would be a valid service is absolutely fine in terms of the provisions

of the Income Tax Rules as well as the notification dated September 12, 2019 issued by the Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, however, the Rules indicate that service through uploading on the portal would require a further action for it to be considered complete. The further action following uploading of the notice, is that a real time alert should also be sent to the assessee's mobile. As to whether such alert was sent in the present case or not has not been made known to the Court. The petitioner has evidently not been served through changed email ID, although the changed email ID was within the knowledge of the Revenue Authorities.

9. In such view of the matter, there is doubt as to whether proper service was effected on the petitioner or not. Since, this Court is not convinced that service of notice under Section 148A(b) of the said Act of 1961, was properly done and there is reason to infer that the petitioner has been deprived of a fair opportunity to present its case before the Assessing Officer prior to the reopening notice under Section 148 of the said Act of 1961 being issued thereby reopening assessment of petitioner's income, therefore this Court is of the view that the petitioner should be granted one more opportunity to present its case before the Assessing Officer to

enable the Assessing Officer to take an informed decision as to whether the petitioner's case is fit for reopening and issuance of a notice under Section 148 of the said Act of 1961 or not.

10. In such view of the matter, the impugned order dated April 8, 2024 under Section 148A(d) of the said Act of 1961 and the notice dated April 8, 2024 issued under Section 148 of the said Act of 1961 are set aside.

11. The petitioner shall file its reply to the notice to show cause dated March 8, 2024 issued under Section 148A(b) of the said Act of 1961 within two weeks from date. The Assessing Officer shall thereafter consider the petitioner' response and proceed to pass appropriate order, in accordance with law.

12. With the aforesaid observations, WPA 18470 of 2025 stands disposed of.

13. There shall, however, be no order as to costs.

14. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)