

\$~A-2

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

+ **W.P.(C) 6627/2022 & CM APPL.20136/2022**

DCM SHRIRAM LIMITED

..... Petitioner

Through: Mr.V.P.Gupta, Advocate with
Mr.Anlinav Kumar, Advocate.

versus

ASSISTANT COMMISSIONER OF INCOME TAX Respondent

Through: Mr.Kunal Sharma, Sr.Standing
Counsel with Ms.Zehra Khan,
Jr.Standing Counsel and Mr.Shray
Nargotra, Advocate.

%

Date of Decision: 10th May, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

MANMOHAN, J (Oral):

1. Present writ petition has been filed challenging the Notice dated 4th April, 2022 issued under Section 148 of the Income Tax Act, 1961 ('the Act') in the name of Petitioner Company i.e. DCM Shriram Ltd. in respect of Permanent Account Number ('PAN') of Bioseed Research India Pvt. Ltd., which stood amalgamated with the Petitioner Company w.e.f. 1st April,

2013 in pursuance to the order passed by Delhi High Court under Sections 391 to 394 of the Companies Act, 1956 and is not in existence since then.

2. Learned counsel for the Petitioner states that the impugned notice has been issued pursuant to the Notice dated 17th March, 2022 issued under Section 148A(b) of the Act in the name of Bioseed Research India Pvt. Ltd., which company is not in existence. He states that in the notice dated 17th March, 2022, issued in the name of Bioseed Research India Pvt. Ltd., the Respondent referred to certain transactions of foreign remittances and had stated that return of income was not filed by the petitioner company for the Assessment Year 2018-19. He further states that the Petitioner Company duly informed the Respondent vide its letter dated 24th March, 2022 that the company, namely, Bioseed Research India Pvt. Ltd. is not in existence. It was also brought to the notice of the respondent, vide the aforesaid letter, that the transactions referred to in the said notice of the Respondent were undertaken by the Petitioner Company and same had been duly accounted for in the books of the Petitioner company.

3. He states that despite the aforesaid communication, the Respondent passed the Order dated 4th April, 2022 under Section 148A(d) of the Act in the name of non-existent company, i.e. Bioseed Research India Pvt. Ltd. He further states that in the aforesaid order, the Respondent has taken note of the event of amalgamation and has also noted that PAN of the Company (Bioseed Research India Pvt. Ltd.) had been marked with the amalgamated company i.e. the Petitioner company on ITBA Portal. He states that the Respondent subsequently issued the impugned notice under Section 148 of the Act in the name of Petitioner company with PAN of Bioseed Research India Pvt. Ltd.

4. He also states that assessment in the case of the Petitioner company for the Assessment Year 2018-19 has still not concluded and same is pending adjudication before the Dispute Resolution Panel ('DRP'). Therefore, according to him, reassessment notice could not have been issued in the case of Petitioner Company for the Assessment Year 2018-19.

5. Issue notice. Mr.Kunal Sharma, learned counsel for the respondent-revenue, accepts notice.

6. He states that in the present case, though the Notice dated 17th March, 2022 under Section 148A(b) and the impugned Order dated 4th April, 2022 under Section 148A(d) had been issued/passed in the name of Bioseed Research India Pvt. Ltd., yet the same had been served upon the successor entity i.e. DCM Shriram Ltd. He emphasises that the petitioner company i.e. DCM Shriram Ltd. was well aware of the proceedings right from the inception and consequently there has been no violation of principle of natural justice. He lastly states that notice under Section 148 has been issued in the name of correct entity i.e. DCM Shriram Ltd.

7. Having heard learned counsel for the parties, the admitted position is that the assessment of the petitioner company i.e. DCM Shriram Ltd. for the assessment year 2018-19 has not concluded yet and the same is pending adjudication before DRP. Consequently, this Court is in agreement with the submission of learned counsel for the petitioner that notice for reassessment could not have been issued to the petitioner for the assessment year 2018-19.

8. Accordingly, on this short ground alone, the present writ petition and application are allowed. If the law permits the respondent/revenue to take further steps in the matter, it shall be at liberty to do so. Needless to state

that if and when such steps are taken and if the petitioner has a grievance, it shall be at liberty to take its remedies in accordance with law.

MANMOHAN, J

DINESH KUMAR SHARMA, J

MAY 10, 2022
TS

HIGH COURT OF DELHI



न्यायमेव जयते