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

+ W.P.(C) 10361/2022

M/S. KAUTILYA FINANCE B. V. Petitioner

Through: Mr.S.Krishnan, Advocate.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE INT.
TAX 2(1)(2), NEW DELHI Respondent

Through: Mr.Zoheb Hossain, senior standing
counsel for the Revenue with
Mr.Vipul Agrawal and Mr.Parth
Semwal, Advocates.

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Date of Decision: 08th July, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, J (Oral):

C.M.No.29831/2022

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) No.10361/2022 & C.M.No.29830/2022

1. Present writ petition has been filed challenging the notice dated 31st March, 2022 issued under Section 148A(b) of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') as well as order dated 25th April, 2022 passed by the Respondent under Section 148A(d) of the Act and notice



dated 25th April, 2022 under Section 148 of the Act issued by the Respondent for Assessment Year 2018-19. Petitioner also seeks a direction to the Respondent to state on affidavit as to how many taxpayers bearing the name "Kautilya Finance BV" are registered on the ITBA portal; how many forms in Form 15-CA issued by E Homes Infrastructure (P) Ltd. in respect of the Petitioner during Assessment Year 2018-19 amounting to Rs.16,13,44,657/-, did the Respondent access, and whether the other forms as issued for the subject year if any, were not available to him and whether prior to passing of the impugned order under section 148A(d) of the Act on 25th April, 2022 any attempt was made by the Respondent to ascertain service of the notice dated 31st March, 2022 under Section 148A(b) of the Act.

2. Learned counsel for the Petitioner states that an order under Section 148A(d) of the Act has been passed on 25th April, 2022 holding that the Petitioner has not filed any reply in respect of notice issued under Section 148 A(b) of the Act dated 31st March, 2022, and therefore, reassessment proceedings are being initiated.

3. He states that the notice under Section 148A(b) dated 31st March, 2022 requiring compliance by 18th April, 2022, had been delivered by the postal authorities to the Petitioner on 25th April, 2022, i.e. on the same date the order under Section 148A(d) was passed. He submits that in violation of Section 148A(b) of the Act, no opportunity of hearing was provided in the present case.

4. Learned counsel for the Petitioner states that the notice as well as the consequent order are both completely unfounded on facts as they allege non-filing of return of income by the Petitioner as well as non-payment of taxes



in India, whereas documents referred by the Respondent to reach these conclusions themselves demonstrate the falsity of the said conclusions.

5. Learned counsel for the Petitioner emphasises that the income referred to by the Respondent has been duly offered to tax.

6. Issue notice. Mr.Zoheb Hossain, learned standing counsel accepts notice on behalf of the Respondent-Revenue. He states that as the notice issued under Section 148A(b) dated 31st March, 2022 had been received by the Petitioner on 25th April, 2022 i.e. on the same date the order under Section 148A(d) of the Act had been passed, he has no objection if the impugned order and notice dated 25th April, 2022 are set aside. He also states that he would ask the Assessing Officer to examine the fact threadbare, especially, keeping in view the averments made by the Petitioner in its letter dated 27th April, 2022.

7. In view of the aforesaid statements made by Mr.Zoheb Hossain, learned counsel for the Petitioner does not wish to press the present writ petition any further.

8. Accordingly, with consent of the parties, the impugned order issued under Section 148A(d) of the Act dated 25th April, 2022 as well as the notice issued under Section 148 of the Act dated 25th April, 2022 are quashed and the matter is remanded back to the Assessing Officer to decide the matter afresh in accordance with law within eight weeks, after giving an opportunity of hearing to the Petitioner. Moreover, in view of the averments made by the Petitioner in its letter dated 27th April, 2022 as well as Form 15-CA referred to in Section 148A(b) notice, this Court directs the Assessing Officer to apply his/her mind diligently.



9. With the aforesaid directions, present writ petition along with pending application stands disposed of.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

JULY 8, 2022

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HIGH COURT OF DELHI



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