

\$~188

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

+ W.P.(C) 8238/2022 & C.M.No.24861/2022

S.R.ASHOK ASSOCIATES PRIVATE LIMITED Petitioner

Through: Mr.Mani Bhadra Jain with Mr.Sameer
Sharma, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX (22) (2)

..... Respondent

Through: Mr.Satish Kumar Agarwal, senior
standing counsel for the Revenue with
Mr.Tushar Gupta and Mr.Utkarsh
Tiwari, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

%

01.06.2022

Present writ petition has been filed challenging the notice issued under Section 148 of the Income Tax Act, 1961 (for short 'Act') as well as the order passed under Section 148A(d) of the Act dated 31st March, 2022 for the Assessment Year 2018-19.

Learned Counsel for the Petitioner states that the Respondent issued a show cause notice to the Petitioner under Section 148A(b) of the Act dated 15th March, 2022 for the Assessment Year 2018-19 on the basis of information that the Petitioner had received unsecured loan from an accommodation entry provider M/s Sirsa Deposits and Advances Limited.

He states that the Petitioner filed a response along with documentary evidence on 22nd March, 2022 explaining that the Petitioner had received an unsecured loan of Rs.4,46,00,000/- from M/s Sirsa Deposit Advance Limited through proper banking channel and the same carried an interest of 7.5% per annum. He further states that the Petitioner paid a sum of Rs.4,34,922/- to M/s Sirsa Deposits and Advances Limited after deduction of TDS of Rs.48,325/-.

Learned counsel for the Petitioner states that the Respondent in its order dated 31st March, 2022 had failed to take into consideration that Petitioner in its Audit Report for the Financial Year 2017-18 had declared that it had taken a loan from M/s Sirsa Deposits and Advances Limited. He states that the Respondent had further failed to take into consideration that Scrutiny Assessment of M/s Sirsa Deposits & Advances Limited for the Assessment Year 2018-19 was accepted at returned income on 16th April, 2021.

Learned counsel for the Petitioner lastly states that an annexure was enclosed with the order under Section 148A(d) of the Act which clearly records that the case of the Petitioner is not a fit case for issuance of Notice under Section 148 of the Act.

On the last date of hearing, Mr.Sunil Agarwal, learned standing counsel for the respondent had prayed for time to obtain instructions. Today, the Assessing Officer is personally present in Court. He states that the annexure was wrongly enclosed with the order issued under Section 148A(d) of the Act. He emphasises that annexure P-11 was a draft which was not final. The Assessing Officer further states that he has no objection if the impugned notice and order under Section 148A(d) of the Act dated 31st

March, 2022 are set aside and the matter is remanded back for a fresh decision.

Accordingly, the impugned order passed under Section 148A(d) of the Act and notice issued under Section 148 of the Act, both dated 31st March, 2022, are set aside and the matter is remanded back to the Assessing Officer for a fresh reasoned decision in accordance with law.

With the aforesaid directions, present writ petition along with pending application stands disposed of. This Court clarifies that it has not commented on the merits of the controversy. The rights and contentions of all the parties are left open.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

JUNE 1, 2022
KA