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

+ W.P.(C) 7437/2022 &amp; CM APPLs.22679-22680/2022

RAVINDER KAUR KHURANA ..... Petitioner  
Through: Mr. Ved Kumar Jain, Advocate.

versus

ASSISTANT COMMISSIONER OF  
INCOME TAX CIRCLE 28-1 DELHI & ANR. .... Respondents  
Through: Mr. Shailendra Singh, Advocate for  
Ms. Vibhooti Malhotra, Advocate.

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Date of Decision: 18<sup>th</sup> May, 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):**

1. Present writ petition has been filed challenging the notice dated 19<sup>th</sup> March, 2022 issued under Section 148A(b) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'), corrigendums dated 29<sup>th</sup> March, 2022 and 31<sup>st</sup> March, 2022, order dated 6<sup>th</sup> April, 2022 issued under Section 148A(d) of the Act as well as the reassessment notice dated 6<sup>th</sup> April, 2022 issued under Section 148 of the Act for the Assessment Year 2015-16.
2. Learned counsel for the petitioner states that the impugned order has been passed in violation of the principles of natural justice as it has been



passed without considering the reply as well as the supporting documents filed by the petitioner to the show cause notice dated 19<sup>th</sup> March, 2022. He states that even though the petitioner had filed her detailed reply on 6<sup>th</sup> April, 2022 at 4:17 P.M. after seeking a fifteen days adjournment vide application dated 4<sup>th</sup> April, 2022, the respondent in the impugned order dated 6<sup>th</sup> April, 2022 issued at 9:25 P.M. has observed that the petitioner was asked to submit her reply on 4<sup>th</sup> April, 2022, she has not filed it till the time of passing of the order. He states that respondents erred in not taking into account the fact that the petitioner had sought adjournment on the ground that the petitioner is 70 years old and her affairs are handled by her husband, aged 77 years, who is bed ridden and is suffering from acute depression.

3. Learned counsel for the petitioner submits that this action of the respondents is against the provisions of Section 148A(c) of the Act which mandatorily requires the Assessing Officer to consider the reply of the assessee before passing an order under Section 148A(d) of the Act. In support of his submissions, he relies on the decision of this Court in the case of *Fena Pvt. Ltd. v. ACIT, W.P.(C) 6553/2022*, wherein under similar circumstances where the assessing officer had not taken into consideration the replies and the documents filed by the assessee before passing the order under Section 148A(d), the Court has quashed the order passed under Section 148 of the Act.

4. Learned counsel for the respondents states that the petitioner had sought adjournments on three occasions i.e. 25<sup>th</sup> March, 29<sup>th</sup> March, and 4<sup>th</sup> April, 2022. He states that on three previous occasions the petitioner had been granted adjournments.



5. This Court is of the view that the petitioner-assessee has a right to be granted adequate time in accordance with the Act to file its reply. Since the petitioner is 70 years old, whose income tax affairs are handled by her husband, who is bed ridden and suffering from acute depression, this Court is of the view that the petitioner should have been granted further time to file her reply.

6. It is pertinent to mention that Section 148A(b) permits the Assessing Officer to suo moto provide upto thirty days period to an assessee to respond to the show cause notice issued under Section 148A(b), which period may in fact be further extended upon an application made by the assessee in this behalf, and such period given to the assessee is excluded in computing the period of limitation for issuance of notice under Section 148 of the Act in terms of the third proviso to Section 149 of the Act.

7. Consequently, the order dated 06<sup>th</sup> April, 2022 issued under Section 148A(b) as well as the notice issued under Section 148 of the Act are quashed and set aside. The matter is remanded back to the Assessing Officer, who is directed to pass a fresh reasoned order in accordance with law within eight weeks after considering the reply filed by the petitioner. With the aforesaid observation and direction, present writ petition and applications stand disposed of.

**MANMOHAN, J**

**MANMEET PRITAM SINGH ARORA, J**

**MAY 18, 2022/js**