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

+ W.P.(C) 12504/2022

MAHASHIAN DI HATTI PVT. LIMITED Petitioner

Through: Mr.Ramesh Singh, Sr.Advocate with
Ms.Shreya Jain and Mr.Gaurav
Tanwar, Advocates.

versus

DEPUTY COMMISSIONER OF INCOME TAX Respondent

Through: Mr.Abhishek Maratha, Sr.Standing
Counsel for the Revenue.

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Date of Decision: 01st September, 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. 37749/2022

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) No.12504/2022 & C.M.No.37748/2022

1. Present writ petition has been filed challenging the notice dated 18th May, 2022 issued under Section 148A(b) of the Income Tax Act, 1961 ('the Act') and the order passed under Section 148A(d) of the Act and the



notice issued under Section 148 of the Act dated 22nd July, 2022 for the Assessment Year 2015-16.

2. Learned senior counsel for the Petitioner states that the Respondent failed to comply with the direction of the Supreme Court in the case of *Union of India vs. Ashish Agarwal, 2022 SCC OnLine SC 543* inasmuch as it made far-fetched allegations without any supporting evidence.

3. He points out that in the show cause notice issued under Section 148A(b) of the Act as well as the subsequent notice dated 18th May, 2022, the only allegation was that the Assessee-Company had taken entries of Rs.1,90,84,654/- from twenty-eight bogus entities maintained by Sh.Deepak Nanjyani. He states that names of none of the twenty-eight bogus entities from whom the Petitioner had allegedly purchased raw material were mentioned in the show cause notice.

4. He emphasises that in the relevant Assessment Year, the Petitioner had a turnover of about Rs.743 crores and had purchased raw material worth about Rs.442 crores. Consequently, learned senior counsel for the Petitioner contends that there has been violation of principles of natural justice as the Petitioner has been denied an effective opportunity to rebut the information available with the Asseesing Officer.

5. Mr.Abhishek Maratha, learned Senior Standing Counsel for the Respondnet-Revenue, who appears on advance notice, states that the Petitioner has received accommodation entries from Raj Trading Company, which is one of the twenty-eight bogus entities maintained by Sh.Deepak Nanjyani. He also states that the Revenue is in possession of bank details of Raj Trading company. In fact, today in Court, he has handed over to learned



counsel for the petitioner a copy of the email written by Income Tax Officer (Inv.) Raipur to Assistant Commissioner of Income Tax, Circle 16(1), Delhi.

6. This Court has consistently observed that to give effect to the objective of the scheme of Section 148A of the Act, the Assessing Officer must provide specific material and information to the Assessee in the notice issued under Section 148A(b) of the Act so that the Assessee can provide a meaningful response at the stage of inquiry under Section 148A proceedings. The following observation of this Court in its decision in ***Divya Capital One Private Limited v. ACIT & Ors., 2022 SCC OnLine Del 1461*** is apposite:

“11. This Court further finds that the information/material stated in the impugned show cause notice dated 17th March, 2022 issued under Section 148A(b) of the Act have not been shared with the Petitioner, despite specific request made by the Petitioner vide letter dated 24th March, 2022, thereby denying the Petitioner an effective opportunity to file a response/reply. The non-sharing of the information is violative of the rationale behind the judgment of this Court in Sabh Infrastructure Ltd. vs. Asst. CIT, MANU/DE/2989/2017 : 398 ITR 198 (Del).”

7. Consequently, as the show cause notice issued under Section 148A(b) of the Act as well as the subsequent notice dated 18th May, 2022 are bereft of any details, this Court is of the view that the Revenue by asking the Petitioner-Assessee to respond to the aforesaid vague show cause notice was virtually asking the Petitioner to search for ‘*a needle in a haystack*’.

8. However, as learned counsel for the Respondent-Revenue now states that the Respondent shall supply all the relevant material documents and information in its possession, the impugned order passed under Section 149A(d) of the Act as well as the notice issued under Section 148 of the Act



dated 22nd July, 2022 are set aside with a direction to the Respondent-Revenue to issue a supplementary notice in pursuance to the initial notice issued under Section 148A(b) of the Act, within three weeks enclosing all the relevant/incriminating information/material/documents. The Petitioner shall file its response to the said supplementary notice within three weeks. The Assessing Officer is directed to pass a fresh order under Section 148A(d) in accordance with law within six weeks thereafter.

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

10. This Court clarifies that it has not commented on the merit of the controversy. The rights and contentions of all the parties are left open.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 1, 2022

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