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

+ W.P.(C) 13616/2022, CM APPL. 41494/2022 & CM APPL. 41495/2022

BOUTIQUE INTERNATIONAL PVT LTD Petitioner

Through: Mr. Kapil Goel, Advocate (Through VC).

versus

DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 4 (2) DELHI Respondent

Through: Mr. Zoheb Hossain, Sr. Standing Counsel with Mr. Vipul Agrawal and Mr. Parth Semwal, Jr. Standing Counsel.

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Date of Decision: 07th October, 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):

CM APPL. 41495/2022 (for exemption)

Exemption allowed, subject to all just exceptions.

Accordingly, this application stands disposed of.

W.P.(C) 13616/2022, CM APPL. 41494/2022 (for stay)

1. Present writ petition has been filed challenging the order passed under Section 148A(d) of the Income Tax Act, 1961, [hereinafter referred to as 'the Act'] and the notice issued under Section 148 of the Act both dated 22nd July, 2022 for Assessment Year [AY] 2017-18.



2. Learned counsel for the Petitioner states that pursuant to the directions of the Supreme Court in *Union of India v. Ashish Agarwal, 2022 SCC OnLine SC 543*, the Petitioner was issued a letter dated 26th May, 2022, under Section 148A(b) of the Act alleging that Petitioner had taken bogus accommodation entries from entities controlled by Mr. Himanshu Verma. He states that the Petitioner filed a detailed reply dated 3rd June, 2022, wherein it was stated that the information on the basis of which the reassessment proceedings were sought to be initiated were incorrect as the Petitioner had never entered into any transactions with Mr. Himanshu Verma or any entities controlled by him. He further states that the information such as the pin-code and the mobile number of the assessee did not correspond with those of the Petitioner.

3. Learned counsel for the Petitioner emphasises that the impugned order under Section 148A(d) was passed without taking into consideration any of the contentions raised by the Petitioner.

4. *Per contra*, learned counsel for the Respondent/Revenues states that there is information available on the insight portal from a credible source which discloses *modus operandi* of tax evasion. He states that the Petitioner's names along with his PAN is mentioned in the information relied upon against the transactions of Rs. 25 Lacs with M/s Kanhaiya Impex Pvt Ltd and Rs. 68 Lacs with M/s Upaj leasing and Finance Co. Pvt Ltd.

5. Having heard learned counsel for the parties, this Court finds that the information furnished to the Petitioner and the impugned order do not specify in which bank account or account number, the alleged amount have been received by the Petitioner. Though the impugned order states that the



asset is represented by bogus accommodation entries in the form of bank deposits, yet no details of any such deposit have been mentioned in the impugned order.

6. Consequently, the impugned order passed under Section 148A(d) of the Act as well as the notice issued under Section 148 of the Act both dated 22nd July, 2022, for AY 2017-18 are set aside and the matter is remanded back to the Assessing Officer for a fresh determination. In the interest of justice, this Court permits the Assessing Officer to supply additional information, if any, in his possession to the Petitioner-Assessee within four weeks. The Petitioner-Assessee shall be at liberty to file an additional response within four weeks thereafter. The Assessing Officer shall subsequently decide the matter in accordance with law within four weeks.

7. With the aforesaid directions, the present writ petition along with the pending application stand disposed of. This Court clarifies that the rights and contentions of all the parties are left open.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

OCTOBER 07, 2022/msh