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

% **Decision delivered on: 02.06.2023**

+ **W.P.(C) 7396/2023**

DR. ASHOK KUMAR SINHA

..... Petitioner

Through: Mr Kishore Kunal with Mr Monish Rastogi
and Ankita Prakash, Adv.

versus

THE ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE
INTERNATIONAL TAX 3 (1) (2), DELHI & ANR.....Respondents

Through: Mr Aseem Chawla, Sr Standing Counsel
with Ms Pratishtha Choudhary and Mr
Aditya Gupta, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

W.P.(C) 7396/2023 and CM APPL. 28771/2023/Application filed on behalf of the petitioner seeking interim relief]

1. Issue notice.

1.1 Mr Aseem Chawla, learned senior standing counsel, who appears on behalf of the respondents/revenue accepts notice.

2. Mr Chawla says, that in view of the order that we propose to pass, he does not wish to file a counter-affidavit in the matter, and he will argue the matter, based on the record presently available with the Court.

3. Therefore, with the consent of the counsel for parties, the writ petition is taken up for hearing and final disposal, at this stage itself.

4. This writ petition is directed against the notice dated 23.03.2023 issued under



Section 148A(b) of the Income Tax, 1961, [in short, “the Act”].

4.1 Besides this, challenge is also laid to the assessment order dated 24.04.2023 passed under Section 148A(d) of the Act.

5. In addition thereto, challenge is also laid to the consequential notice of even date i.e., 24.04.2023 issued under Section 148 of the Act.

6. Counsel for the petitioner submits, that the impugned order and consequential notice have been passed, without taking into account the detailed response filed by the petitioner, to explain the charge levelled against him, which is, that outward foreign remittance made by him had, purportedly, escaped assessment.

7. It is, thus, submitted that although the Assessing Officer (AO) has extracted several parts of the petitioner’s response dated 15.04.2023, there has been no application of mind, with regard to the information contained therein.

8. Broadly, it is the petitioner’s case, that the foreign remittance came to be made on account of sale of immovable property by his late father i.e., one Dr. Achyutanand Sinha, and other amounts which stood credited to his account.

9. It is also the petitioner’s case, that his father i.e., Dr. Achyutanand Sinha had distributed a large part of the credit balance obtaining in his account between the petitioner and his sibling. Upon the death of the father, his account, maintained with SBI, which was jointly held by the petitioner, was converted into a Non-Resident Ordinary (NRO) account, and thereafter the remaining amount was remitted to the petitioner’s bank account maintained with the Barclays Bank, in England.

10. The remittance from the SBI account to Barclays Bank was the outward foreign remittance which came under scrutiny by the AO.

11. Thus, the details of the sources of foreign remittance and the ultimate transmission of amount from SBI maintained jointly by the petitioner, along with his father, are set out.

12. Counsel for the petitioner emphasizes, that upon the death of his father, he was the sole person operating the account, which, as indicated above, resulted in the remittance of balance amount from the SBI account to Barclays Bank Account.



13. We may note, that the petitioner has appended the statement of the subject bank account maintained with SBI at the relevant point of time, which is marked as Annexure P-9, and is appended on page 99 of the case file.
14. In support of his plea that every document was submitted to the AO, our attention is drawn to Annexure-10, which is appended on page 100 of the case file, indicating the index accompanying the documents that were filed with the AO.
15. Mr Aseem Chawla, learned senior standing counsel, who appears on behalf of respondents/revenue submits, that the best way forward would be to set aside the order and direct a reexamination of the material placed on record by the petitioner, including the material that was placed before this Court.
16. We tend to agree with Mr Chawla.
17. Accordingly, the impugned order and notices are set aside.
18. The AO will take into account the assertion(s) made in the writ petition and the accompanying documents.
19. Besides this, documents which are already filed by the petitioner with the AO will also be considered. Thereafter, the AO will examine, whether the reassessment proceedings need to be taken forward.
20. In case the AO is of the view that reassessment proceedings are to be taken forward, he shall issue a notice to the petitioner, and in such eventuality, accord him personal hearing in the matter.
21. The AO will permit the petitioner to appear in-person and/or through his authorized representative.
22. Needless to add, the AO will pass a speaking order; a copy of which will be furnished to the petitioner.
23. The petitioner will have the liberty to assail the order passed by the AO, *albeit*, in accordance with the law.
24. The writ petition is disposed of in the aforesaid terms.
25. Consequently, pending application shall stand closed.



26. Parties will act based on the digitally signed copy of the order.

**(RAJIV SHAKDHER)
JUDGE**

**(GIRISH KATHPALIA)
JUDGE**

JUNE 2, 2023/RV

[Click here to check corrigendum, if any](#)

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