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

% *Date of decision : 10.05.2023*

+ **W.P.(C) 6060/2023**

MASK CONSULTANTS PVT. LTD. Petitioner

Through: Mr Dinesh Mohan Sinha, Advocate

versus

INCOME TAX OFFICER AND ANR.

..... Respondent

Through: Mr Gaurav Gupta, learned senior standing counsel

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

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

RAJIV SHAKDHER, J.: (ORAL)

1. Issue notice.
2. Mr Gaurav Gupta, learned senior standing counsel, accepts notice on behalf of the respondents/revenue.
3. Mr. Gupta says, given the directions 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. Therefore, with the consent of the counsels for parties, the writ petition is taken up for hearing and final disposal, at this stage itself.
4. This writ petition concerns Assessment Year (AY) 2019-20.
5. The petitioner has laid a challenge to the notice dated 20.03.2023 issued under Section 148A(b) of the Income Tax Act, 1961 [in short, "Act"]. Besides this, a challenge is also laid to the order dated 30.03.2023 passed under Section 148A(d) of the Act.
6. Mr Dinesh Mohan Sinha, who appears on behalf of the petitioner, says that the impugned order is flawed for the reason that, although the petitioner had filed a reply to



the aforementioned notice issued under Section 148A(b) of the Act, the same was not taken into account.

6.1 For this purpose, our attention has been drawn by Mr Sinha to the reply dated 20.03.2023, which was uploaded on the designated portal on 28.03.2023. [See Annexure P3, appended on page 39 of the case file].

7. A perusal of paragraph 3 of the impugned order dated 30.03.2023 passed under Section 148A(d) of the Act shows that the Assessing Officer(AO) has proceeded on the basis that the petitioner has not filed a response to the notice issued under Section 148A(b) of the Act.

7.1 This is factually inaccurate.

8. Given this position, we are inclined to set aside the order. It is directed accordingly.

9. Liberty is, however, given to the Assessing Officer (AO) to pass a fresh order.

9.1 The AO will grant personal hearing to the authorized representative of the petitioner. For this purpose, the AO will issue a notice to the petitioner which would indicate the date and time of the hearing.

10. Resultantly, the consequential notice dated 30.03.2023 issued under Section 148 of the Act shall also stand dissolved.

11. The writ petition is disposed of in the aforesaid terms.

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

(RAJIV SHAKDHER)
JUDGE

(GIRISH KATHPALIA)
JUDGE

MAY 10, 2023/as

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