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

+ W.P.(C) 15982/2022 & C.M.Nos.49784-49785/2022

MITTAL INTERNATIONAL

..... Petitioner

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

versus

THE ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE  
52 (1) NEW DELHI

..... Respondent

Through: Mr.Kunal Sharma, Sr.Standing  
Counsel for the Revenue with  
Ms.Zehra Khan and Mr.Shubhendu  
Bhattacharya, Advocates.

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Date of Decision: 21<sup>st</sup> November, 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 impugned order passed under Section 148A(d) of the Income Tax Act, 1961 (for short 'Act') and notice issued under Section 148 of the Act, both dated 22<sup>nd</sup> July, 2022 for the Assessment Year 2015-16.

2. Learned counsel for the Petitioner states that the Respondent has conducted the impugned proceedings on deactivated PAN AAAFM2684G. He states that the Petitioner has repeatedly communicated to the Respondent that it has made all income tax related compliances on correct / active PAN AAAFM7234J as all relevant financial transactions have been fully recorded

and accounted for in regular audited final accounts of Petitioner and thus no income has escaped assessment in its hands.

3. Learned counsel for the Petitioner emphasises that the Income Tax Department in pursuance to assessee's letters filed on 09<sup>th</sup> November, 2017 and 23<sup>rd</sup> November, 2017 for surrender of incorrect PAN has formally deactivated the same on 05<sup>th</sup> December, 2017. He states that there is subsequent correspondence by the Petitioner communicating the factum of deactivation of incorrect PAN as recently as 18<sup>th</sup> April, 2022.

4. Issue notice.

5. Mr. Kunal Sharma, learned counsel accepts notice on behalf of the Respondent-Revenue. He states that the assessee had filed no response on the merits of the case and hence Rs.12,06,84,903/- was determined as income having escaped assessment in the form of stock / bills of entry for import.

6. In rejoinder, learned counsel for the Petitioner has drawn this Court's attention to pages 96 & 140 of the paper book which are response / replies given by the petitioner during the proceeding under Section 142(1) of the Act.

7. Having heard learned counsel for the parties, this Court is of the view that interest of justice would be served if the Petitioner is given an opportunity to file a supplementary reply to the notice issued under Section 148A(b) of the Act. Consequently, the impugned order passed under Section 148A(d) of the Act and the notice issued under Section 148 of the Act, both dated 22<sup>nd</sup> July, 2022 for the Assessment Year 2015-16 are set aside and the Petitioner is directed to file a supplementary reply to the notice issued under Section 148A(b) of the Act within four weeks. The Assessing Officer shall

pass a fresh order under Section 148A(d) within eight weeks thereafter in accordance with law. Since the proceedings are being conducted on a deactivated PAN, the Assessing Officer is directed to entertain emails / hard copies of the replies / materials / evidences filed by the Petitioner.

8. With the aforesaid directions, present writ petition along with pending applications stands disposed of. This Court clarifies that it has not commented on the merits of the controversy. The rights and contentions of all the parties are left open.

**MANMOHAN, J**

**MANMEET PRITAM SINGH ARORA, J**

**NOVEMBER 21, 2022**  
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