

\$~53

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

% *Decision delivered on: 02.05.2023*

+ **W.P.(C) 5650/2023 & CM Nos.22138-39/2023**

PREMIUM ESTATES PRIVATE LIMITED Petitioner
Through: Mr Sumit K. Batra, Mr Naunidh S.
Arora and Mr Manish Khurana, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX,
CIRCLE 19(1) DELHI & ANR. Respondents
Through: Ms Anuja Pethia and Mr Rishabh
Nangia, Advs.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MR. JUSTICE GIRISH KATHPALIA
[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

CM No.22139/2023

1. Allowed, subject to the petitioner filing legible copies of the annexures, at least three days before the next date of hearing.

W.P.(C) 5650/2023 & CM No.22138/2023 [*Application filed on behalf of the petitioner seeking interim relief*]

2. Issue notice.

2.1 Ms Anuja Pethia, learned standing counsel, accepts notice on behalf of the respondents/revenue.

3. In view of the directions that we propose to pass, Ms Pethia says that she does not wish to file a counter-affidavit and will rely upon the record, as

is presently available to the court. Therefore, with the consent of learned counsels for the 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 assailed the order dated 31.03.2023 passed under Section 148A(d) of the Income Tax Act, 1961 [in short, "Act"].

5.1 Besides this, challenge is also laid to a consequential notice of even date, i.e., 31.03.2023 issued under Section 148 of the Act.

6. The principal grievance of the petitioner is that no notice was issued to the petitioner under Section 148A(b) of the 1961 Act.

7. Learned counsel for the petitioner says that the said notice under Section 148A(b) of the Act, which is dated 10.03.2023, was received by the petitioner only on the date when the order under Section 148A(d) of the 1961 Act was passed, i.e., 31.03.2023.

8. It is submitted by the learned counsel for the petitioner that no real time alert was issued *via* email, in terms of Rule 127 of the Income Tax Rules, 1962 [in short, "Rules"]. This assertion has been made by the petitioner in paragraph 2 of the writ petition.

9. Ms Pethia says that the best way forward in this case would be to set aside the impugned order with liberty to the Assessing Officer (AO) to carry out the exercise *de novo*.

10. Given this position, the impugned order dated 31.03.2023 passed under Section 148A(d) and the consequential notice of even date, i.e., 31.03.2023 issued under Section 148 of the Act are set aside.

11. The petitioner will file a reply to the notice dated 10.03.2023 issued under Section 148A(b) of the Act within three (3) weeks commencing from

today.

12. The AO will accord personal hearing to the authorized representative of the petitioner. For this purpose, a notice shall be issued fixing the date and time of the hearing.

13. The AO will, thereafter, pass a speaking order in accordance with the law.

14. The writ petition is disposed of, in the aforesaid terms. Consequently, the pending application shall stand closed.

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

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

MAY 2, 2023

aj