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

% *Decision delivered on: 05.07.2023*

+ **W.P.(C) 8870/2023 & CM Nos.33516-17/2023**

DAUPHIN TRAVEL MARKETING PRIVATE LIMITED. Petitioner
Through: Mr Ved Jain and Mr Nischay
Kantoor, Advs.

versus

INCOME TAX OFFICER, WARD 7(1),
DELHI & ORS. Respondents
Through: Mr Kunal Sharma, Sr Standing
Counsel with Ms Zehra Khan,
Standing Counsel and Mr Shubhendu
Bhattacharya, Adv. for R-1 to 3, 6 &
7/revenue.
Mr Vikas Kumar Sharma and Mr
Piyush Mishra, Advs. for R-5/UOI.

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.33517/2023

1. Allowed, subject to just exceptions.

W.P.(C) 8870/2023 & CM No.33516/2023 [*Application filed on behalf of
the petitioner seeking interim relief*]

2. At the outset, Mr Ved Jain, who appears on behalf of the petitioner,
says that respondent nos.4 and 5 can be deleted from the array of parties.

2.1 It is ordered accordingly.



3. To complete the record, Mr Jain will file an amended memo of parties within the next ten (10) days.
4. Issue notice.
 - 4.1 Mr Kunal Sharma, learned senior standing counsel, accepts notice on behalf of respondent nos.1 to 3, 6 & 7, i.e., the revenue.
5. Given the directions that we propose to issue, Mr Sharma says that he does not wish to file a counter-affidavit and he will argue the matter based on the record presently available with the court. Therefore, with the consent of the learned counsels for the parties, the matter is taken up for hearing and final disposal at this stage itself.
6. This writ petition concerns Assessment Year (AY) 2013-14.
7. *Inter alia*, the petitioner seeks to challenge the assessment order dated 25.05.2023.
8. Mr Jain says that challenge in the present petition is confined to the ground that there has been a breach of principles of natural justice, inasmuch as the notice dated 26.04.2023 issued under Section 142(1) of the Income Tax Act, 1961 [in short, "Act"] and the show-cause notice dated 12.05.2023 were not sent to the correct e-mail address of the petitioner.
9. According to Mr Jain, the correct e-mail address of the petitioner, as registered with the respondents/revenue, is: dtm.psc@gmail.com.
10. The record shows that the notice dated 26.04.2023 was sent to the following e-mail address: info@dtmindia.com.
 - 10.1. Likewise, the show-cause notice dated 12.05.2023 proposing variation in income was also sent to the incorrect e-mail address, i.e., info@dtmindia.com. [See pages 209 and 215 of the case file].
11. Besides the aforesaid, it is pointed out by Mr Jain that the petitioner



was granted time to file a response to the show-cause notice dated 12.05.2023, only up until 17.05.2023 (11:00 hours).

12. It is Mr Jain's submission that the petitioner became aware of the aforementioned notices [i.e., notices issued under Section 142(1) of the Act and the show-cause notice], only when the information uploaded in the designated portal was ferreted on 25.05.2023, and, accordingly, a request was made for accommodation.

13. As would be evident, this request was not considered, since the AO had proceeded to pass the assessment order dated 25.05.2023.

14. In support of his plea that the Assessing Officer (AO) was required to grant a minimum of seven (7) days for responding to the show-cause notice, reliance is placed on the judgment rendered by this court in *Indo Laminates Pvt. Ltd. vs. Assessment Unit, Income Tax Department & Ors.*, 2023/DHC/000879.

15. At this stage, without getting bogged-down by the factual assertion made by the petitioner that the aforementioned notices were not directed to the correct e-mail address, we are inclined to set aside the assessment order on the ground that the show cause notice dated 12.05.2023 did not accord a minimum of seven (7) days to the petitioner to file a response.

15.1 It is ordered accordingly. The assessment order dated 25.05.2023 is set aside.

15.2 The petitioner is given leave to file response(s) to the notice dated 26.04.2023 issued under Section 142(1) of the Act and the show-cause notice dated 12.05.2023 within the next two (2) weeks.

15.3 To facilitate the filing of replies by the petitioner, the AO is directed to open the portal.



15.4 The AO will have liberty to pass a fresh assessment order, after taking into account the response(s), if any, that the petitioner may file, as indicated above, within the timeframe set forth hereinabove.

16. The writ petition is disposed of, in the aforesaid terms.

17. Consequently, the pending interlocutory application shall stand closed.

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

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

JULY 5, 2023

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