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

% *Decision delivered on: 16.01.2023*

+ **W.P.(C) 470/2023 & CM Nos.1847-48/2023**

VAYOO NANDAN FINANCE COMPAY PVT. LTD... Petitioner

Through: Mr Salil Kapoor, Mr Sumit Lalchandani, Mr C.S. Anand, Ms Ananya Kapoor and Mr Shiyam Yadav, Advs.

versus

INCOME TAX OFFICER, WARD 26 (1), DELHI Respondent

Through: Mr Sunil Agarwal, Sr. Standing Counsel and Mr Tushar Gupta, Jr. Standing Counsel with Mr Utkarsh Tiwari, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

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

RAJIV SHAKDHER, J. (ORAL):

CM No.1848/2023

1. Allowed, subject to just exceptions.

W.P.(C) 470/2023 & CM No.1847/2023 [*Application filed on behalf of the petitioner seeking interim relief*]

2. Issue notice.

2.1 Mr Sunil Agarwal accepts notice on behalf of the respondent/revenue.

3. In view of what has emerged during the course of hearing, Mr Agarwal says, that at this juncture, no counter-affidavit is required to be

filed.

4. Therefore, with the consent of learned counsel for the parties, this writ petition is taken up for hearing and final disposal.

5. This writ petition is directed against the notice dated 22.03.2022 issued under Section 148A(b) of the Income Tax Act, 1961 [in short "Act"].

5.1 Besides this, challenge is also laid to the order dated 30.03.2022 passed under Section 148A(d) of the Act and the consequential notice of even date i.e., 30.03.2022 passed under Section 148 of the Act.

5.2 To be noted, these proceedings concern Assessment Year (AY) 2018-2019.

6. There are two principal grievances raised by Mr Salil Kapoor, who appears on behalf of the petitioner.

6.1 First, the statutory seven days' timeframe, which had to be accorded to file a reply has not been granted *via* notice dated 22.03.2022.

6.2 Second, the material available with the Assessing Officer (AO) which, apparently, has been passed on by the Investigation Wing, has not been furnished to the petitioner.

7. To be noted, the allegation against the petitioner is, briefly, that he has entered into transactions with one Naresh Manakchand Jain and Sunstar Reality Developers; accommodation entry providers.

8. The cumulative value of the transactions supposed to have been entered by the petitioner/assessee with the aforementioned entities is Rs.28,36,343/-.

9. The petitioner/assessee, in its reply, has categorically taken the stand that it has not entered into any transactions with the entities referred to hereinabove.

9.1 This aspect has been noted by the AO in paragraph 7 of the order passed under Section 148A(d) of the Act.

9.2 As is noted above, Mr Kapoor says, that no information has been furnished to the petitioner by the AO.

10. Mr Agarwal, on the other hand, relies upon the impugned order passed under Section 148A(d) of the Act to resist the petition. Mr Agarwal, however, cannot but accept, that the petitioner had to be granted a minimum of seven days to respond to the notice issued under Section 148A(b) of the Act.

11. Furthermore, given the fact, that it is completely unclear, at this juncture, as to whether any information was received by the AO which was then furnished to the petitioner, the matter, according to us, would require reconsideration on both counts, based on which the petitioner has approached this Court.

12. Accordingly, the best way forward, in our opinion, would be to set aside the order passed under Section 148A(d) of the Act and the consequent notice issued under Section 148 of the Act.

13. It is ordered accordingly.

13.1 The order dated 30.03.2022 and the consequent notice dated 30.03.2022 are set aside.

14. The AO is directed to conduct a *de novo* hearing.

14.1 The AO will, before proceeding further, furnish the information/material made available to him by the Investigation Wing, which is a requirement as recognized by the Supreme Court in its judgment rendered in *Union of India v. Ashish Aggarwal* (2022) 444 ITR 1 (SC).

15. The AO will grant hearing in the matter to the authorized

representative of the petitioner.

15.1 For this purpose, the AO will issue a notice, fixing the date, time and venue. The AO will, however, be at liberty to carry out proceedings *via* video-conferencing (VC).

16. Needless to add, the AO will pass a speaking order. A copy of the order will be furnished to the petitioner.

17. In case an order is passed, which is adverse to the interests of the petitioner, the petitioner will have liberty to take recourse to an appropriate remedy, *albeit*, as per law.

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

19. Consequently, the pending applications shall stand closed.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

JANUARY 16, 2023

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