(2022) 12 DEL CK 0170

In the Delhi High Court

Case No : Civil Writ Petition No. 17455 Of 2022, Civil Miscellaneous Application No. 55642-43 Of 2022

Bharat Agro Overseas (India) APPELLANT

Vs

ACIT Circle 34(1) & Anr RESPONDENT

Date of Decision : 21-12-2022

Acts Referred:
Income Tax Act, 1961 — Section 148, 148A(b), 148A(d)

Citation : (2022) 12 DEL CK 0170

Hon'ble Judges : Rajiv Shakdher, J;Tara Vitasta Ganju, J

Bench : Division Bench

Advocate : Ruchesh Sinha, Samyak Jain, Puneet Rai, Adeeba Mujahid

Final Decision : Disposed Of

Judgement

Rajiv Shakdher, J

CM No.55643/2022

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) 17455/2022&CM No.55642/2022[Application filed on behalf of the petitioner seeking interim relief]

2. Issue notice.

2.1. Mr Puneet Rai accepts notice on behalf of the respondents/revenue.

3. In view of the direction that we intend to pass, Mr Rai says that a counter-affidavit need not be filed. With the consent of the learned counsel

for the parties, the writ petition is taken up for hearing and final disposal at this stage itself.

4. Challenge in this writ petition is laid to notice dated 23.05.2022 issued under

Section 148A(b) of the Income Tax Act, 1961 [in short ?ct? concerning Assessment Year (AY) 2013-2014. Besides this, the petitioner has also assailed the order dated 30.07.2022 passed under Section 148A(d) of the Act and the consequential notice of even date, i.e., 30.07.2022 issued under Section 148 of the Act.

5. In the course of the hearing, what has emerged is that, perhaps, the information/material that formed the basis for issuing the impugned notice under Section 148A(b) of the Act was not supplied to the petitioner.

5.1. Mr Rai says that he has obtained instructions to the effect that the Assessing Officer (AO) is not sure as to whether the material/information was supplied partially or wholly.

6. Given this position, the impugned order dated 30.07.2022 passed under Section 148A(d) of the Act and the consequential notice dated 30.07.2022 issued under Section 148 of the Act are set aside.

7. The respondents/revenue will have liberty to take the next steps in the matter, albeit, as per law.

8. At this stage, we may note that one of the grounds that the petitioner has raised in the writ petition is that the reassessment proceedings were commenced by issuing notice against a non-existent entity, i.e., the partnership firm which bears the same name as the petitioner.

8.1 It is averred that the petitioner before us is a proprietorship concern. It is also averred that the proprietor of the petitioner concern is one Mr Deepak Dogra, who, along with Mr Himanshu Taneja, formed the partnership firm going by the same name, i.e., Bharat Agro Overseas (India).

8.2 The petitioner also claims that communications were addressed on 31.03.2017, whereby the surrender and cancellation of the PAN allocated to the partnership firm was sought. This request, according to the petitioner, was made once again on 27.02.2020. [See Annexure-3 appended on pages 69 and 70 of the case file].

9. Mr Rai contests the position which is taken on behalf of the petitioner, both on facts and law.

10. Therefore, while dealing with the notice issued under Section 148A(b), these contentions, apart from other contentions that may be raised on behalf of the petitioner, will be dealt with by the AO.

11. In order to hasten the proceedings, the AO is directed to furnish the relevant information/material to the petitioner within four weeks from the date of receipt of a copy of the order passed today.

11.1. Thereafter, the AO will give at least three weeks to the petitioner to respond both to the notice as well as the material furnished.

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

