(2022) 05 DEL CK 0099

In the Delhi High Court

Case No : Civil Writ Petition No. 7142 Of 2022, Civil Miscellaneous Application No. 21900 Of 2022

Lalit Kumar Poddar APPELLANT

Vs

Income Tax Officer & Anr. RESPONDENT

Date of Decision : 09-05-2022

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

Citation : (2022) 05 DEL CK 0099

Hon'ble Judges : Manmohan, J;Dinesh Kumar Sharma, J

Bench : Division Bench

Advocate : Prem Lata Bansal, Shivang Bansal, Ajit Sharma

Final Decision : Disposed Of

Judgement

Manmohan, J

1. Present writ petition has been filed challenging the order dated 25th March, 2022 passed by Respondent No.1 under Section 148A(d) of the Income Tax Act, 1961 (for short 'the Act') and the notice dated 26th March, 2022 issued by the Assessing Officer under Section 148 of the Act for the Assessment Year 2018-19.

2. Learned senior counsel for the Petitioner states that despite the Petitioner having moved an application for extension of time and the portal being kept open for the said purpose, the submission filed by the assessee within the extended time was not taken into account by the Respondents.

3. Learned senior counsel for the petitioner states that it is the mandate of statute under sub-clause (d) of Section 148A that the Assessing Officer shall decide, on the basis of material available on record including the reply of the assessee, as to whether or not it is a fit case to issue a notice under Section 148 of the Act, by passing an order, with the prior approval of Pr. CIT. She points out that in the present case, Respondent No.1 has not considered the reply/ representation made by the assessee and had proceeded with a pre-determined

mind.

4. Issue notice.

5. Mr. Ajit Sharma, learned counsel accepts notice on behalf of the respondents.

6. He states that the petitioner has not placed on record either the Show Cause Notice or the correspondence exchanged with the Department. He, however, states that respondents have no objection if the Assessing Officer is directed to consider the reply/representation of the petitioner a copy of which has been placed at page 64 of the paper book.

7. Consequently, the impugned order dated 25th March, 2022 as well as the notice dated 26th March, 2022 are set aside and the Assessing Officer is directed to pass a fresh reasoned order in accordance with law within six weeks, after considering the reply/representation dated 26th March, 2022 placed at pages 64 and 65 of the paper book along with annexure enclosed therewith. With the aforesaid direction, the present writ petition and application stand disposed of.

8. 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.