

(2023) 05 DEL CK 0339

In the Delhi High Court

Case No : Civil Writ Petition No. 6893 Of 2023, Civil Miscellaneous No. 26873-74 Of 2023

Metro Irrigation Private Limited

APPELLANT

Vs

Income Tax Officer & Anr

RESPONDENT

Date of Decision : 22-05-2023

Acts Referred:

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

Citation : (2023) 05 DEL CK 0339

Hon'ble Judges : Rajiv Shakdher, J; Girish Kathpalia, J

Bench : Division Bench

Advocate : Nikhil Goyal, Bankim Garg, Gaurav Gupta, Puneett Singhal, Shivendra Singh

Final Decision : Disposed Of

Judgement

Rajiv Shakdher, J

CM No.26874/2023

1. Allowed, subject to just exceptions.

W.P.(C) 6893/2023 & CM No.26873/2023 [Application filed on behalf of the petitioner seeking interim relief]

2. Issue notice.

2.1 Mr Gaurav Gupta, learned senior standing counsel, accepts notice on behalf of the respondents/revenue.

3. Given the direction(s) that we propose to issue, Mr Gupta says that counter-affidavit need not be filed, and he will argue the matter, based on the record presently available with the Court.

3.1 Therefore, with the consent of learned counsel for the parties, the matter is taken up for hearing and final disposal, at this stage itself.

4. This writ petition concerns Assessment Year (AY) 2015-16.

5. The record shows, that the petitioner was issued a show-cause notice on 20.04.2023, whereby it was granted time to file its response by 13:19 hours, 25.04.2023.

5.1 The record also discloses, that the petitioner, on 24.04.2023, requested that time be granted till 10.05.2023, as the papers concerning the case had to be collated.

6. It appears, that the Assessing Officer (AO), without dealing with the request for accommodation, went on to pass the assessment order on 04.05.2023.

6.1 Consequently, the AO also triggered penalty proceedings via order of even date i.e., 04.05.2023.

7. According to us, there has been a breach of principles of natural justice, inasmuch as the AO did not inform the petitioner, as to whether or not the request for accommodation was declined.

7.1 Therefore, in our view, the best way forward would be to set aside the impugned assessment order and penalty notice, as also the order dated 27.07.2022 passed under Section 148A(d) and consequential notice of even date i.e., 27.07.2022 issued under Section 148 of the Income Tax Act, 1961 [in short, "Act"] with liberty to the AO to carry out de novo proceedings.

8. It is ordered accordingly.

9. The petitioner will file its reply to the notice dated 17.05.2022 issued under Section 148A(b) of the Act, within four weeks.

9.1 We make it clear, that in case any material available with the AO has not been made available to the petitioner, the same will be furnished to the petitioner, within two weeks from today.

9.2. The AO will, thereafter, issue a notice, which will indicate the venue and time of hearing, that would be accorded to the petitioner.

9.3 The petitioner's time to file the reply will commence only thereafter.

9.4. The timeline indicated above will commence from the date of receipt of the copy of the judgement.

9.5 Needless to add, the AO will pass a speaking order; a copy of which will be furnished to the petitioner.

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

10.1 Consequently, pending application shall also stand closed.

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