
(2022) 04 DEL CK 0245

In the Delhi High Court

Case No : Civil Writ Petition No. 6775 Of 2022, Civil Miscellaneous Application No. 20588-20589 Of 2022

M/S Mm9 International

APPELLANT

Vs

Union Of India & Anr.

RESPONDENT

Date of Decision : 29-04-2022

Acts Referred:

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

Citation : (2022) 04 DEL CK 0245

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

Bench : Division Bench

Advocate : Ashish Batra, Sanjay Kumar, Easha Kadian

Final Decision : Disposed Of

Judgement

Manmohan, J

1. Present writ petition has been filed challenging the order passed under Section 148A(d) of the Income Tax Act, 1961 (for short 'Act') and the notice issued under Section 148 of the Act dated 2nd April, 2022.
2. Learned counsel for the Petitioner states that Respondent No.2, without granting the minimum statutory time of seven days prescribed under Section 148A(b), had passed the order under Section 148A(d) of the Act and issued notice under Section 148 of the Act both dated 2nd April, 2022.
3. He states that Respondent No.2 issued a show cause notice under Section 148A(b) (digitally signed on 23rd March, 2022 at 11:46 PM), which was received by the Petitioner vide e-mail on 23rd March, 2022 at 11:52 PM.
4. He states that vide the said show cause notice, Respondent No.2 had directed the Petitioner to file its reply by 29th March, 2022. He states that the Petitioner attempted to file its reply on 30th March, 2022, however, the Portal did not permit filing of the reply, as Respondent No.2 had fixed the time limit for filing

reply on the portal by 29th March, 2022.

5. He submits that Respondent No.2 erred in not following the mandatory requirement of granting not less than seven days but not more than thirty days opportunity to the assessee to file its explanation under Section 148A(b) of the Act.

Issue notice.

7. Mr. Sanjay Kumar, learned counsel for the respondents accepts notice.

8. Keeping in view the averments in the writ petition, this Court is of the view that the impugned order has been passed not only in violation of the time period stipulated under Section 148A(b) of the Act but also in violation of the principles of natural justice.

9. Consequently, the impugned order and notice dated 2nd April, 2022 is set aside and the respondent is directed to reopen the portal to enable the petitioner to file its response to the notice dated 23rd March, 2022 within three days of opening of the portal. The respondent is also directed to decide the matter in accordance with law within four weeks thereafter.

10. With the aforesaid direction, the present writ petition and applications stand disposed of.