

(2023) 05 DEL CK 0479

In the Delhi High Court

Case No : Civil Writ Petition No. 5998 Of 2023

Sheevam Transolutions Pvt. Ltd.

APPELLANT

Vs

Assistant Commissioner Of Income Tax Circle 22(2) Delhi &
Anr

RESPONDENT

Date of Decision : 09-05-2023

Acts Referred:

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

Citation : (2023) 05 DEL CK 0479

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

Bench : Division Bench

Advocate : Ruchesh Sinha, Ruchir Bhatia

Final Decision : Disposed Of

Judgement

Rajiv Shakdher, J

CM No. 23514/2023

1. Allowed, subject to just exceptions.

W.P.(C) 5998/2023 & CM APPL. 23513/2023 [Application filed on behalf of the petitioner seeking interim relief]

2. Issue notice.

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

3. In view of the directions that we propose to pass, Mr Bhatia says, that he does not wish to file a counter-affidavit in the matter, and that he will advance arguments, based on the record presently available with the Court.

4. Therefore, 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.

5. This writ petition concerns Assessment Year (AY) 2019-20.
6. The principal allegation against the petitioner is, that it has availed bogus loan from an entity going by the name LTE Info Technologies Private Limited [in short, "LTE"].
7. It is alleged by the respondents/revenue, that the petitioner has ostensibly taken bogus loan amounting to Rs. 1,28,00,000/-.
8. This allegation is embedded in the notice dated 27.02.2023, issued to the petitioner under Section 148A(b) of the Income Tax Act, 1961 [in short, "Act"].
9. Concededly, the petitioner responded to the same, via a reply dated 04.03.2023.
10. The petitioner, on merits, averred that although it had taken a loan from LTE, the amount taken as loan was Rs. 64,00,000/- and not Rs. 1,28,00,000/-.
11. The stand of the petitioner is, that the loan is genuine.
12. This apart, the petitioner also asked for personal hearing in the matter.
13. The record shows, that the Assessing Officer (AO) proceeded to pass the impugned order dated 28.03.2023 under Section 148A(d) of the Act, without affording personal hearing to the authorized representative of the petitioner.
14. Mr Ruchesh Sinha, learned counsel for the petitioner says, that the procedure adopted is contrary to the CBDT Guidelines dated 01.08.2022, as well as the CBDT Instruction dated 22.08.2022.
15. This apart, Mr Sinha says, that purely by way of principles of natural justice, the Assessing Officer was obliged to grant an opportunity of personal hearing to the authorized representative of the petitioner, in the event he had any doubt about the explanation given by the petitioner, in its response to the notice.
16. We tend to agree with Mr Sinha, that personal hearing ought to have been accorded to the petitioner.
17. We are, therefore, inclined to set aside the impugned order dated 28.03.2023 passed under Section 148A(d) of the Act, with liberty to the Assessing Officer to carry out a de novo exercise.
- 17.1 It is ordered accordingly.
18. Resultantly, the consequential notice of even date i.e., 28.03.2023 issued under Section 148 of the Act will also collapse.
19. The Assessing Officer, thus, will be at liberty to pass a fresh order. However, before the Assessing Officer embarks on this journey, he will issue a notice to the petitioner, indicating the date and time of the hearing.
20. The Assessing Officer will be free to conduct the hearing through video-

conferencing (VC).

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

22. Pending application shall also stand closed.

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