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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 11964/2022

DD MOTORS

..... Petitioner

Through: Mr.Puneet Agarwal with Mr.Yuvraj
Singh and Mr.Chetan Kumar Shukla,
Advocates.

Versus

INCOME TAX OFFICER AND ANR.

..... Respondents

Through: Mr.Sanjay Kumar, Sr.Standing
Counsel for the Revenue with
Ms.Easha Kadian, Advocate

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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22.08.2022

C.M.No.35746/2022

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) No.11964/2022 & C.M.No.35745/2022

Present writ petition has been filed challenging the show cause notice dated 21st May, 2022 issued under Section 148A(b) of the Income Tax Act, 1961 ['the Act'] as well as the order passed under Section 148A(d) of the Act and the notice issued under Section 148 of the Act both dated 20th July, 2022 for the Assessment Year 2016-17.

Learned counsel for the petitioner states that as per the impugned notice dated 21st May, 2022 the only information on the basis of which the reassessment proceedings were sought to be initiated was that there were huge credits and debits in the bank accounts of the petitioner with minor balance at the year end. He however states that the Respondents have failed to specify how such information is information which suggests that income chargeable to tax has escaped assessment.

He also points out that in the impugned notice dated 21st May, 2022, the petitioner was asked to explain the credits of Rs. 47.62 Crores followed by debits of Rs. 47.58 Crores in its bank account. He, however, states that in the impugned order dated 20th July, 2022 the respondents held that since the petitioner did not provide any reasons for transferring the funds from one bank account to another, the income has escaped assessment. He states that the petitioner could not have possibly provided reasons for something that had not even been asked by the respondents in their show cause notice.

Learned counsel for the petitioner further states that the impugned order dated 20th July, 2022 passed under Section 148A(d) of the Act first states that “as per information received, the assessee has credits of Rs.47,62,51,847/-”, but it then goes on to say that the information actually pertains to two different entities, the assessee and M/s. Sree India Surgical Private Limited and only credits of Rs.35,30,09,819/- pertains to the petitioner. He emphasises that the notice dated 21st May, 2022 states that the petitioner is engaged in the business of agro products, whereas the petitioner is actually engaged in the business of distributor/retailer of Diesel, Petrol and Mobil Oil as the assessee is running a Reliance Petrol Pump.

Issue notice. Mr.Sanjay Kumar, learned senior standing counsel accepts notice on behalf of the respondents-revenue. He prays for and is permitted to file a counter affidavit within four weeks. Rejoinder affidavit, if any, be filed before the next date of hearing.

List on 01st February, 2023.

Though the Assessing Officer is permitted to pass the assessment order, yet it is directed that the same shall not be given effect to and shall be subject to further orders to be passed by this Court.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

AUGUST 22, 2022
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