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

+ **W.P.(C) 7385/2022**

**SHRI SAI CO-OPERATIVE THRIFT AND CREDIT SOCIETY
LTD.**

..... Petitioner

Through: Mr.Vineet Bhatia, Advocate.

versus

INCOME TAX OFFICER, WARD 43-6

..... Respondent

Through: Mr.Sunil Agarwal, Sr.Standing
Counsel with Mr.Tushar Gupta,
Jr.Standing Counsel and Mr.Utkarsh
Tiwari, Advocate.

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Date of Decision: 12th May, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

MANMOHAN, J (Oral):

1. Present writ petition has been filed challenging the Notice dated 22nd March, 2022 issued under Section 148A(b) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'), the consequential order dated 06th April, 2022 issued under Section 148A(d) and notice issued under Section 148 of the Act dated 7th April, 2022.

2. Learned counsel for the Petitioner states that the Respondent has issued a notice to petitioner-society under clause (b) of Section 148A of the Act on 22nd March, 2022 on the ground that the Petitioner had made cash deposits of Rs.92,11,800/- in its bank accounts but had not filed its Income Tax Return. He states that the Petitioner was asked to furnish a reply to the said notice on or before 25th March, 2022. He further states that the Petitioner duly replied to the said notice on 25th March, 2022 clearly explaining that all the cash deposited by the Petitioner was received from the members of the society, for which cash receipts had been issued to the members and proper record in this regard had been maintained. He states that in the reply, the petitioner had also explained that KYC of all the members were properly done and books of accounts of the Petitioner were duly audited and were furnished to the Registrar of Companies.

3. Learned counsel for the Petitioner states that the respondents passed the order dated 6th April, 2022 under clause (d) of Section 148A rejecting the reply of the Petitioner on the ground that although the Petitioner had stated that the cash deposited in the bank account of the Petitioner was received from its members yet it had failed to provide the list of members who had given cash to the Petitioner.

4. Learned counsel for the Petitioner states that the Petitioner was granted only three days' time to file its response to the notice. He states that the list of members could not be filed along with the reply as the time granted to the Petitioner to prepare the list and furnish along with its reply was inadequate. He emphasises that the revenue has failed to give a minimum time of seven days to the petitioner to file its reply and, thus,

failed to fulfil the criterion of ‘not less than seven days’ as provided in clause (b) of Section 148A of the Act.

5. Issue notice. Mr.Sunil Agarwal, learned counsel for the revenue, accepts notice.

6. He, on instructions, states that the Assessing Officer did not issue any corrigendum extending the time limit for filing the reply as no such request was made. He further states that as the said reply was filed within the time stipulated in the notice dated 22nd March, 2022, no prejudice has been caused to the petitioner.

7. Having heard learned counsel for the parties, this Court is of the view that under Section 148A(b) of the Act, a minimum time of seven days has to be granted to the assessee to file its reply to the said show cause notice.

8. In the present case, though the petitioner responded to the show cause notice, yet it could not provide all the relevant details and documents, as the time period of three days to respond to the show cause notice was inadequate. Consequently, this Court is of the view that in the present case not only there has been a violation of the mandatory time period stipulated under Section 148A(b) of the Act, but grave prejudice has been caused to the petitioner.

9. Accordingly, the impugned order dated 6th April, 2022 under Section 148A(d) and notice under Section 148 of the Act are quashed. If the law permits the respondent/revenue to take further steps in the matter, it shall be at liberty to do so. Needless to state that if and when such steps are taken and if the petitioner has a grievance, it shall be at liberty to take its remedies in accordance with law.

10. With the aforesaid direction, the present writ petition stands disposed of.

MANMOHAN, J

DINESH KUMAR SHARMA, J

MAY 12, 2022
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HIGH COURT OF DELHI



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