



IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No. 2639 of 2023

Date of Decision: January 8, 2024

Nitin Life Sciences Limited

...Petitioner.

Versus

Principal Commissioner of Income Tax & another

..Respondents.

Coram:

The Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

The Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?¹

For the Petitioner: Mr.Vishal Mohan, Senior Advocate, alongwith M/s Vikram Thakur, Praveen Sharma, Shubham Sood, Satyam Aneja and Aditya Sood, Advocates.

For the Respondents: Mr.Vinay Kuthiala, Senior Advocate, alongwith Mr.Diwan Singh Negi, Advocate.

Vivek Singh Thakur, J (Oral)

Petitioner has assailed order dated 13.04.2023 (Annexure P-7) and notice dated 13.04.2023 (Annexure P-8) whereby it has been concluded that income/transactions of the petitioner to the extent of ₹2,73,28,43,663/- has escaped assessment in the Assessment Year 2019-2020 and notice has been issued for assessment/reassessment of such income within 30 days of the service of the notice.

2. Alongwith petition, petitioner has placed on record copy of notice served upon him as Annexure P-4. Response

1 Whether reporters of the local papers may be allowed to see the judgment?

thereto alongwith annexure submitted on behalf of the petitioner has also been placed on record as Annexure P-5. An additional reply stated to have been filed by petitioner on 03.04.2023 has also been placed on record as Annexure P-6.

3. Main grievance of the petitioner is that details furnished alongwith reply (Annexure P-5), indicating that income/transactions shown in notice Annexure P-4 have already been accounted for in the Books of Account of the Company including profit and loss account and Balance Sheet, have not been taken into consideration by the respondent-authority and supplementary reply (Annexure P-6) filed on 03.04.2023 has also not been considered.

4. Learned counsel for the respondents has contended that reply of the assessee has been considered as reflected in the impugned order itself and, further that, supplementary reply stated to have been filed on 03.04.2023 has not been received by the concerned authority.

5. Perusal of the impugned order Annexure P-7 indicates that though it has been recorded in it that reply of the assessee has been considered, but there is no reference with respect to reply and documents filed by the petitioner and there is no consideration with respect to supplementary/additional reply filed by the petitioner on 03.04.2023.

6. So far as plea of the respondents that supplementary reply filed by the petitioner on 03.04.2023 was not received by the concerned authority, is falsified from the document

(Annexure R-1) filed by the respondents themselves with their reply wherein at Sl.No.13 it has been clearly reflected that on 03.04.2023 reply from the assessee was filed.

7. In aforesaid facts and circumstances, it is apparently clear that concerned authority has neither considered reply filed alongwith documents nor supplementary reply filed on 03.04.2023 by the petitioner. There is no speaking order assigning reason for conclusion arrived at that income/transactions to the extent of ₹2,73,28,43,663/- has escaped assessment in the Assessment Year 2019-2020.

8. In view of above discussion, order dated 13.04.2023 (Annexure P-7) and notice dated 13.04.2023 (Annexure P-8) are quashed and set aside and matter is relegated to the concerned authority for deciding afresh by taking into consideration reply as well as supplementary reply alongwith documents filed therewith, by passing a speaking and reasoned order, after affording opportunity of personal hearing to the petitioner, if desired so. Order shall be communicated to the petitioner immediately thereafter.

9. Petition is disposed of in aforesaid terms, so also pending application(s), if any.

(Vivek Singh Thakur),
Judge.

(Sandeep Sharma),
Judge.

January 8, 2024
(Purohit)