IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.2088 of 2023

Decided on: 14.06.2023

M/s M.K. Auto Clutch Co. ...Petitioner

Versus

Principal Commissioner of Income Tax-I & another ...Respondents

Coram
The Hon'ble Mr. Justice M.S. Ramachandra Rao, Chief Justice
The Hon'ble Mr. Justice Ajay Mohan Goel, Judge

Whether approved for reporting?

For the petitioner: Mr. Vishal Mohan, Senior Advocate with Mr.Aditya Sood, Advocate.

For the respondents: Mr. Vinay Kuthiala, Senior Advocate with Mr. Diwan Singh Negi, Advocate.

M.S. Ramachandra Rao, Chief Justice (Oral)

Heard both sides.

2. Petitioner in the writ petition has assailed order dt. 31st March, 2023, passed by the 2nd respondent under Clause (d) of Section 148A of the Income Tax Act, 1961 (for short, 'the Act').

3. The grievance of the petitioner is that though the petitioner had submitted a reply on 24.03.2023 on electronic mode to the show cause notice dt. 18th March, 2023, issued to

the petitioner, under Clause (b) of Section 148A of the Act, the same had not been considered by the 2nd respondent erroneously stating that there was no reply filed by the petitioner at all to the said show cause notice.

4. In the reply filed by the respondents, it is admitted that the petitioner did file a reply to the show cause notice on 24.03.2023, but the same had not been considered, as it was not reflected till 25.03.2023 on the on-line portal of the Income Tax Department due to technical error. It is admitted that the petitioner had filed its reply within time.

5. Having regard to the stand taken by the respondents in their reply, we are of the opinion that the impugned order passed by the 2nd respondent cannot be sustained.

6. Accordingly the writ petition is allowed. Order dated 31st March, 2023, passed by the 2nd respondent under Clause (d) of Section 148A of the Act as well as consequential notice issued under Section 148 of the Act, bearing the same date, are quashed and set aside; the 2nd respondent is directed to consider the reply dt. 24.03.2023 filed by the petitioner and

then pass a reasoned order, in accordance with law, and communicate it to the petitioner.

7. Pending application(s), if any, shall also stand disposed of.

(M.S. Ramachandra Rao)
Chief Justice

(Ajay Mohan Goel)
Judge

June 14, 2023
(vt)