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

+ **W.P.(C) 10227/2023 & CM Nos.39588-89/2023**

OXFAM INDIA

..... Petitioner

Through: Mr Arvind P. Datar, Sr Adv. with Mr Sachit Jolly, Ms Disha Jham and Ms Soumya Singh, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX,  
CENTRAL CIRCLE 14, NEW DELHI & ANR. .... Respondents

Through: Mr Vipul Agrawal, Sr Standing Counsel with Mr Gibran Naushad and Ms Sakshi Shairwal, Standing Counsels.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

**HON'BLE MR. JUSTICE GIRISH KATHPALIA**

**ORDER**

% **04.08.2023**

[Physical Hearing/Hybrid Hearing (as per request)]

**CM No.39589/2023**

1. Allowed, subject to the petitioner filing legible copies of the annexures, at least three days before the next date of hearing.

**W.P.(C) 10227/2023 & CM No.39588/2023 [Application filed on behalf of the petitioner seeking interim relief]**

2. This writ petition concerns Assessment Year (AY) 2016-17.

3. Via this writ petition, a challenge has been laid by the petitioner to the following notices and orders:

W.P.(C) 10227/2023

page 1 of 5

Signature Not Verified

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JAIN

Signing Date: 10/08/2023  
13:00:51

- (i) Notice dated 29.03.2023 issued under Section 148A(b) of the Income Tax Act, 1961 [in short, “Act”].
- (ii) Order dated 19.04.2023 passed under Section 148A(d) of the Act.
- (iii) Consequential notice dated 19.04.2023 issued under Section 148 of the Act.
4. The record shows that a survey was conducted on 07.09.2022. The survey led to initiation of the reassessment proceeding.
5. The petitioner has averred that it stands registered under the provisions of Section 12AA of the Act since AY 2008-09.
- 5.1 It is also the petitioner’s case that an assessment order dated 02.12.2018 was framed under Section 143(3) of the Act.
6. It appears that in the Return of Income (ROI) for the relevant AY, the petitioner had claimed deductions under Section 12A read with Section 11 of the Act.
7. A notice dated 29.03.2023 issued under Section 148A(b) of the Act, which triggered the reassessment proceeding against the petitioner, broadly, adverted to the following aspects:
- (i) First, the petitioner was engaged in litigation activities which were violative of Section 8(1) of the Foreign Contribution (Regulation) Act, 2010 [in short, “FCRA”].
- (ii) Second, it had received suspicious contribution from foreign nationals.
- (iii) Third, it failed to recognize as revenue Rs.15,09,85,211/-, which was received as advances against future projects.

(iv) Fourth, the petitioner had not applied 85% of its total receipts towards its objects in the relevant period, as required under the provisions of the Act.

8. We may note that the last aspect (i.e., that the petitioner had not utilized 85% of its receipts towards its stated objects) does not form part of the order passed under Section 148A(d) of the Act.

9. The petitioner says that the charge levelled against it, that it has received contributions from foreign nationals which were suspicious, is misconceived as the details and names of contributors were provided.

10. Furthermore, the petitioner also takes the stand that the Assessing Officer's (AO) assertion that Rs.15,09,85,211/- should have been recognized as income is completely misconceived, as these were advances which had to be utilized for future objects, and therefore was not income which arose, in the period in issue.

11. We may note that there are, *inter alia*, two legal submissions that have been advanced before us by Mr Arvind P. Datar, learned senior counsel, assisted by Mr Sachit Jolly and Ms Disha Jham, who appear on behalf of the petitioner/assessee.

11.1 First, the respondents/revenue did not share the survey report with the petitioner.

11.2 Second, the proceeding initiated against the petitioner were barred by limitation.

12. Besides this, Mr Datar has also submitted that an amendment brought about in Section 149(1)(b) of the Act pursuant to the Finance Act, 2022 would not be applicable to the petitioner, as that amendment would be

applicable only from AY 2022-23.

13. It is pointed out by Mr Datar that somewhat similar issues are being considered by this court in another writ petition, i.e., W.P.(C)No.7190/2023, titled *Centre for Policy Research v. Deputy Commissioner of Income Tax, Central Circle 14 & Anr.*

14. We may note that Mr Vipul Agrawal, learned senior standing counsel, who appears on behalf of the respondents/revenue, has submitted that the petitioner's FCRA licence has run into rough weather, and that the petitioner is agitating its rights in this court, before another Bench.

14.1 In this behalf, our attention has been drawn to the fact that the petitioner has filed a writ action, i.e., W.P.(C)No.1771/2023. We are told that this writ petition is pending before the learned single judge of this court and that, for the moment, no interim relief has been granted to the petitioner.

14.2 Mr Datar, along with Mr Jolly and Ms Jham, do not dispute this fact.

15. According to us, the matter requires further examination.

16. Accordingly, issue notice.

16.1 Mr Vipul Agrawal, learned senior standing counsel, accepts notice on behalf of the respondents/revenue.

17. A counter-affidavit will be filed within the next six (6) weeks.

17.1 Rejoinder thereto, if any, will be filed at least five days before the next date of hearing.

18. List the matter on 22.11.2023.

19. In the meanwhile, there shall be a stay on the continuation of the reassessment proceeding, till further directions of the court.

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

**RAJIV SHAKDHER, J**

**GIRISH KATHPALIA, J**

**AUGUST 4, 2023/aj**

*Click here to check corrigendum, if any*