



IN THE HIGH COURT OF ORISSA, AT CUTTACK

W.P.(C) No. 20391 of 2023

*Hi Tech Institute of Information
Technology, Koraput*

.....

Petitioner

Mr. J. Patnaik, Advocate

Vs.

*The Chairman, Central Board of
Direct Taxes, Ministry of Finance,
New Delhi and others*

.....

Opposite Parties

Mr. S.C. Mohanty, Sr. Standing Counsel, IT

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE G. SATAPATHY

ORDER

30.04.2024

Order No.

05.

This matter is taken up through hybrid mode.

2. Heard Mr. J. Patnaik, learned counsel for the petitioner and Mr. S.C. Mohanty, learned Senior Standing Counsel for IT Department.

3. Hi Tech Institute of Information Technology, being the petitioner has filed this writ petition seeking to quash the order dated 26.03.2023 issued under Section 148 A (d) of I.T. Act under Annexure-8 and the notice issued under Section 148 of the I.T. Act dated 26.03.2023 under Annexure-9 to the writ petition.

4. On perusal of the impugned orders it reveals that in the order issued under clause (d) of Section 148 A of the I.T. Act under Annexure-8 it has been indicated that in response to the show cause notice under Section 148 A (b) dated 26.02.2023 and 14.03.2023, till date no compliance or no such reply has been made by the assessee as per the date and time allowed to the assessee to furnish reply as per the show cause notice under section 148 A (b) of the I.T. Act-



1961. On the basis of the information available in the record, it is apparent that the assessee has a sum of Rs.1,90,76,300/- as undisclosed income for the Assessment Year 2019-20.

5. The record further reveals that pursuant to the notice issued under Section 148 A (b) of the I.T. Act, the petitioner submitted its reply on 15.03.2023. However, since the entire stand of the petitioner was that the reply given by the petitioner has not been taken into consideration, therefore, this Court issued notices to the opposite parties and in response to the same, a counter affidavit has been filed, wherein at paragraph-3 it has been stated as follows:-

“Para No.3 : The order u/s 148 A (d) was passed on 26.03.2023 after consideration of reply submitted by the assessee on 15-02-2023. As the order u/s 148 A (d) passed on 26-03-2023, we cannot deny that the assessing officer had not considered the reply submitted by the assessee.”

6. In view of such position, this Court is of the opinion that if the documents have been filed by the petitioner pursuant to the notice issued under Section 148 A (b) of the Act, the same should have been taken note of in the impugned orders/notices under Annexures-8 and 9. Therefore, since the same has not been taken note of under Annexures-8 and 9, the impugned order and notice issued under Section 148 A (d) and under Section 148 of the Income Tax Act, 1961 are liable to be set aside and accordingly the same are hereby set aside.

7. As a consequence thereof the Assessing Officer is directed to pass a fresh reasoned order under Section 148 A (d) of the Act after taking into account the submissions/contentions advanced by the



petitioner as well as the documents/evidences filed along with the said replies.

8. With the above observation and direction, the writ petition stands disposed of.

(DR. B.R. SARANGI)
JUDGE

Arun

(G. SATAPATHY)
JUDGE