



**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**

D.B. Civil Writ Petition No. 7352/2022

Parmesh Chand Yadav S/o Rameshwar Lal Yadav, Dhani Chimdayli Vpo-Bilanderpur, Vaya-Khejroli, , Shahpura, Jaipur 303803 Rajasthan.

----Petitioner

Versus

Income Tax Officer, Ward 7(1) Jaipur, Sidhnath Bhawan, Jaipur Rajasthan, Jyoti Nagar Scheme Lal Kothi Scheme, Behind Vidhansabha Janpath Jaipur Rajasthan 302015

----Respondent

For Petitioner(s) : Mr. Nikhil Yadav & Mr. Vedant Agarwal  
for Mr. Abhil Goyal  
For Respondent(s) : Mr. Amit Malani on behalf of  
Mr. Nikhil Simlote

**HON'BLE MR. JUSTICE MANINDRA MOHAN SHRIVASTAVA  
HON'BLE MRS. JUSTICE SHUBHA MEHTA**

**Order**

**12/07/2022**

Heard.

In this petition, reply has not been filed, the same stands closed.

Challenge in this petition is to impugned order dated 31.03.2022 passed by the Assessing Authority in exercise of power under Section 148A of the Income Tax Act, 1961(herein referred to as "the Act of 1961") leading to issuance of notice under Section 148 in the matter of reopening of the assessment proceedings for the assessment year 2018-2019.

The bare facts necessary for adjudication of controversy involved in this petition are that the petitioner and income tax



payee, for the assessment year of 2018-19 submitted his income tax returns and assessment proceedings were drawn.

A notice, however, came to be issued by the Assessing Officer on 19.3.2022. Notice Under Sub-Clause (b) of Section 148A of Act, 1961 came to be issued to the petitioner stating that information received suggests that income chargeable to tax for the assessment year 2018-19 has escaped assessment within the meaning of Section 147 of the Act, 1961. Alongwith the said notice, details as part of the annexures were also disclosed that as per higher risk CRIU/VRU information flagged by the Directorate of Income Tax(systems) which is received insight portal, during the year under consideration, investment to tune of Rs.4,65,72,546/- were made by the Assessee towards purchase of Crypto currency, but the source of the same was not verified and in the ITR filed, it was declared that the total income for the said year was Rs.5,46,500/-only, which is quite nominal an amount as compared to investment disclosed subsequently.

A detailed reply was submitted by the petitioner. The petitioner sought to justify the transaction by submitting that the amount as alleged in the notice only reflects the volume of transaction in the course of trade of Crypto currency and not the investment amount as alleged. Alongwith the reply, the petitioner filed ITR acknowledgment for the assessment year 2018-19, bank statement depicting the transfers done in exchange for Crypto currency and computation of income for assessment year 2018-2019.

The Assessing Officer, however, was not satisfied with the reply mainly on the ground that reply submitted by the petitioner that the investment was less, but the volume of transaction has



been wrongly assumed as investment amount is not supported by the relevant documentary evidence. Resultantly, order was passed under section 148A(d) of IT Act leading to issuance of notice under Section 148 of IT Act,1961 which is not challenged.

The principal contention of learned counsel for the petitioner is that the impugned order is not speaking and does not consider the reply of the petitioner, but mechanically rejects the objection. He would submit that a finding that the petitioner has not furnished any documentary evidence in support of information, is perverse as the petitioner had submitted more than one documents. He would further submit that the source of investment has wrongly been held as unverified, though, the entire bank transactions were submitted after obtaining statement from the bank, which was also not disputed. Therefore, it is contended, the impugned order is cryptic, vague, perverse and liable to be interfered with.

Though, reply has not been submitted by the respondents, learned counsel for the revenue would submit that the proceedings u/s 148A(b) were initiated against the petitioner because upon receipt of credible information as stated in the notice dated 19.03.2022, it was revealed that huge amount of investment of Rs.4,65,72,546/- was made by the petitioner. He would submit that the petitioner's assertion that the amount as shown in the transaction was not investment, but it was only volume of transactions during the course of trade of Crypto currency, remained unverified and even though the petitioner could have submitted before the authority the electronic ledger records relating to transaction of Crypto currency, but failed to do so. He would submit that various documents which have been



annexed with the reply were not sufficient to verify the information as submitted by the Assessee in the absence of non submission of the ledger account relating to transaction in Crypto Currency.

We have heard learned counsel for the parties and perused the records and the impugned order which has been passed by the respondent and order of this court in the case of **Abdul Majeed Vs. Income Tax Officer** (D.B.Civil Writ Petition No.7853/2022) decided on 29.06.2022.

The statutory Scheme of Section 148A of of the Act, 1961 reveals that before initiating proceedings under Section 148, the Competent Authority is required to conduct an enquiry after affording an opportunity of hearing in the manner as specified in Section 148A of the Act, 1961. Sub Clause (d) of Section 148A of the Act, 1961 provides that the Assessing Officer is required to decide on the basis of material available on record including reply of the assessee whether or not, it is fit case to issue a notice u/s 148 of the Act, 1961, by passing order, with the prior approval of specified authority.

Sub-Clause (b) of Section 148A of the Act, 1961 thereof provides that the information must suggest that income chargeable to tax has escaped assessment. Therefore, the purpose of enquiry is to find out whether there is material which suggest that income chargeable to tax escaped assessment.

The opinion which is required to be found should be based on material available on record. The impugned order as it reads shows that the authority has recorded a finding that the material evidence to verify the transaction regarding Crypto currency is not placed on record.



Even in this petition, the petitioner has not submitted the concerned ledger statements relating to trade in Crypto currency.

We find considerable force in the submission of leaned counsel for revenue that bank transactions alone are not sufficient to verify the trade in Crypto currency rather, the assessee ought to have submitted before the authority the relevant ledger statement evidencing that he had entered into trade of Crypto currency in the manner as has been asserted by him by way of the information stated by him. Whether it was the volume of the trade which is reflected in the total amount of Rs.4,65,72,546/-or it was an investment made in the Crypto currency without any withdrawal therefrom would essentially be a matter for consideration upon perusal of the Crypto currency ledger.

May be because of this reason, the authority was of the view that the information regarding trade in Crypto currency is not verified.

However, we find that the authority has considered, though in brief, the reply of the petitioner at this stage only for the purpose of deciding whether proceedings under Section 148 of the Income Tax Act, 1961 should be drawn. In our considered opinion, the exercise which has been undertaken by the authority fulfilled the legal requirement of Section 148(A) of the Act, 1961.

Nevertheless, even now it would be open for the assessee to satisfy the authority by submitting the relevant Crypto currency ledger to verify the information as was submitted by him before the Assessing Officer in proceedings under Section 148A of the Act, 1961.



We are not inclined to interfere with the order as we do not find that the order is either perverse or lacks jurisdiction so as to warrant interference by this court in exercise of writ jurisdiction.

Subject to the liberty which has been granted to the petitioner to submit appropriate documentary evidence in support of information in Section 148 proceedings, the petition is accordingly dismissed.



(SHUBHA MEHTA),J

(MANINDRA MOHAN SHRIVASTAVA),J



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