

IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE AMAR NATH (KESHARWANI)

ON THE 22nd OF AUGUST, 2022

WRIT PETITION No. 10302 of 2022

Between:-

RAMCHANDRA HARYANI S/O JETHANANDJI
HARYANI R/O 120 VIDHYA NAGAR, INDORE
452001 (MADHYA PRADESH)

.....PETITIONER

(BY SHRI VIBHORE KHANDELWAL, ADVOCATE)

AND

1. UNION OF INDIA THROUGH CHAIRMAN CENTRAL
BOARD OF DIRECT TAXES MINISTRY OF FINANCE
GOVERNMENT OF INDIA (NEW DELHI)

2. PRINCIPAL COMMISSIONER OF INCOME TAX,
RANGE 1 AAYKAR BHAWAN, OPP. WHITE
CHURCH ROAD, RESIDENCY AREA, INDORE
(MADHYA PRADESH)

3. INDORE TAX OFFICER, RANGE 5 (1) AAYKAR
BHAWAN, OPP. WHITE CHURCH ROAD,
RESIDENCY AREA, INDORE (MADHYA PRADESH)

4. INCOME TAX OFFICER RANGE 4 (1) AAYKAR
BHAWAN, OPP. WHITE CHURCH ROAD,
RESIDENCY AREA, INDORE (MADHYA PRADESH)

.....RESPONDENTS

(RESPONDENT NO.2 BY MS. VEENA MANDLIK,

ADVOCATE)

This petition coming on for admission this day, JUSTICE VIVEK RUSIA passed the following:

O R D E R

The petitioner has filed the present writ petition under Article 226 of the Constitution of India seeking the following reliefs:-

“7.1. That, the instant petition may kindly be allowed and the respondents may kindly be directed to activate the erroneously and illegally cancelled PAN bearing No.ABDPH0428F allotted to the petitioner under section 139A of the Act of 1961 enabling the petitioner to file his ITRs in accordance with law;

7.2. That, the respondents may further be directed to cancel the PAN bearing No.AAGPH0406B illegally and erroneously activated by the respondent No.3 for no justified reasons;

7.3. Any other relief which this Hon'ble Court may deem fit in the light of equity, justice and good conscience may also be granted in favour of the petitioner.”

02. According to the petitioner, Income Tax Department issued a PAN Card to the petitioner bearing Permanent Account Number ABDPH0428F and he is filing Income Tax Returns since 2011 quoting this PAN. The petitioner admits that by mistake he submitted an application for the issuance of a new PAN Card, and accordingly, a new PAN Card bearing Permanent Account Number AAGPH0406B has been issued. Later on, he realized his mistake

and submitted an application on 18.01.2017 before the concerned Income Tax Officer for surrendering new PAN Card bearing Permanent Account Number AAGPH0406B. According to the petitioner, upon receiving the said application, the respondents have cancelled the PAN-AAGPH0406B. According to the petitioner, he has never used PAN-AAGPH0406B in filing any of the Income Tax Returns or in any transaction with the Government Department.

03. The petitioner has been served with a show-cause notice by the respondents on 23.03.2022 under Section 148A(b) of the Income Tax Act, 1961 (in short The Act of 1961) by respondent No.3 alleging that he had made transactions by using PAN -AAGPH0406B without disclosing to the Income Tax Department. The petitioner has submitted a reply to the respondents and the said proceedings are still pending against him.

04. During the pendency of the above proceedings, the respondents have cancelled PAN-ABDPH0428F(old) and activated PAN -AAGPH0406B(new). The petitioner has approached this Court seeking directions to the respondents to cancel PAN -AAGPH0406B(new) and to activate PAN-ABDPH0428F(old) so that he may file Income Tax Returns for this Financial Year.

05. Vide order dated 02.08.2022, Ms. Veena Mandlik was directed to seek instructions in the matter. Learned counsel submits that the petitioner has quoted PAN-AAGPH0406B for depositing an amount of Rs.1,42,47,800/- in IDBI Bank. The petitioner did not

disclose the said fact in the returns submitted during FA – 2017 – 2019 and AY – 2018 – 19. Therefore, the proceedings have been initiated under Section 148 of the Act of 1961. Learned counsel further submits that in view of provisions of Section 139A & 272B of the Act of 1961, no one is permitted to have two PAN Card. Since the assessment proceedings are pending in respect of PAN Card bearing No.AAGPH0406B, therefore, the respondents have rightly activated the same, and the petitioner can file ITRs quoting this PAN i.e. second PAN.

06. Shri Khandelwal, learned counsel for the petitioner submits that the petitioner has been filling the Income Tax Returns for the last ten years quoting PAN-ABDPH0428F(old) and now this PAN has been deactivated, therefore, he is unable to file Income Tax Returns. All business transactions are held up because of the deactivation of PAN-ABDPH0428F.

07. Heard learned counsel for the parties at length and perused the record.

08. Section 139A of the Act of 1961 mandates that every citizen shall have a Permanent Account Number if his total income exceeds the maximum amount which is not chargeable to income tax. Sub-section (4) of Section 139A authorizes a person for allotment of a PAN under a new series and upon allotment of such PAN to a person, the earlier PAN, if any to him, shall cease to have effect. Sub-section (7) of Section 139A prohibits that no person who has already been allotted a PAN under the new series shall

apply, obtain or possess another PAN. Therefore, it is clear from the aforesaid provisions of law that the petitioner cannot have two PAN Cards. The grievance of the petitioner is that he has been filing Income Tax Returns quoting PAN-ABDPH0428F, but now since the same has been deactivated, he is compelled to file returns by quoting PAN-AAGPH0406B which he had already surrendered and he would not get the infringe benefit of PAN-ABDPH0428F if he submits a return quoting PAN -AAGPH0406B.

09. The petitioner is an IT assessee, he has to file income tax returns for this financial year or previous financial years for which he has to have PAN. The old PAN has been deactivated and the new PAN which he got cancelled has been now activated for the proceedings of section 148 of the Act of 1961. If he uses this PAN -AAGPH0406B he may face complications in future. We are of the considered opinion that this complex issue is liable to be examined by the Income Tax Commissioner / respondent No.1 considering the practical problem which is being faced by the petitioner and also the complications which may arise in future while filing Income Tax Returns and quoting the wrong PAN. The Commissioner shall also decide the issue as to which PAN is to be used by the petitioner for future transactions and Income Tax Returns.

10. The petition is disposed of with a direction to the petitioner to submit detailed representation to the Income Tax Commissioner / respondent No.1, who shall consider and decide

the same in accordance with law within a period of 60 days from the date of receipt of such representation.

Writ Petition stands disposed of to the extent indicated above.

(VIVEK RUSIA)
JUDGE

(AMAR NATH (KESHARWANI))
JUDGE

Ravi

