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

\+ W.P.(C) 4108/2018 & CM No.16160/2018

MRADUL AGARWAL ..... Petitioner

Through: Ms. Prem Lata Bansal, Senior Advocate with Mr. Ram Avtar Bansal & Mr .Yudhvir Dalal, Advocates

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE - 2 & ANR. ..... Respondents

Through: Mr. Asheesh Jain, Senior Standing Counsel, ITD

WITH

\+ W.P.(C) 4109/2018 & CM No.16162/2018

GHANSHAYAM AGARWL ..... Petitioner

Through: Ms. Prem Lata Bansal, Senior Advocate with Mr. Ram Avtar Bansal & Mr .Yudhvir Dalal, Advocates

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE - 2 & ANR. ..... Respondents

Through: Mr. Asheesh Jain, Senior Standing Counsel, ITD

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON’BLE MS. JUSTICE PRATHIBA M. SINGH

O R D E R

% **27.04.2018**

On the last date of hearing, we had asked learned counsel for the respondents to obtain instructions, as the case set-up by the writ petitioners is that they had submitted written reply raising legal contentions, which have not been considered in the impugned order, which records that "in response to the show cause notice under Section 179 of the Act, the assessee had not submitted any written submissions."

Learned counsel for the respondents has produced before us two letters, both dated 24.4.2018 in the two cases, observing that the Assessing Officer ('AO') has no objection and has given his consent for setting aside the order dated 13.4.2018 passed under Section 179 of the Income Tax Act, 1961. AO would pass afresh order after considering the reply filed by the assessee/petitioner.

In view of the aforesaid position, with consent, we set aside the impugned order dated 13.4.2018. The AO would be at liberty to pass a fresh order after hearing the petitioners and who would be entitled to rely upon response/reply dated 21.2.2018.

To cut short the delay, the petitioners/their authorised representatives will appear before the AO on 10.5.2018 at 11:30 A.M.

The writ petitions are disposed of. We clarify that we have not expressed any opinion on merits of the cases. We also clarify that in case the petitioners are aggrieved by any order, they would be entitled to challenge the same in accordance with law.

Dasti under signature of the Court Master.

SANJIV KHANNA, J

PRATHIBA M. SINGH, J

APRIL 27, 2018/tp