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

\+ W.P.(C) 11574/2017 and CM No. 47156/2017

SUSHMA BAJAJ ..... Petitioner

Through Ms. Astha Gupta and Mr. Manashay Jha, Advs.

versus

PRINCIPAL COMMISSIONER OF INCOME TAX-XXIV & ORS. ..... Respondents

Through Mr. Asheesh Jain, Sr. Standing Counsel with Mr. Shahruk Ejaz, Adv.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

<u>O R D E R</u>

% 11.01.2018

1. Learned counsel for the respondents states that he has got the original file and that he would waive right to file counter affidavit.

2. As per the original file, the case of the petitioner was selected for scrutiny assessment, but the petitioner could not be served with notice.

3. In the meanwhile, the Assessing Officer, i.e. Income Tax Officer, Ward No. 71 (1), New Delhi learnt that the petitioner is a resident of Sonipat and accordingly, he transferred the case to the Income Tax Officer, Ward No. 4 at Sonipat. Assessing Officer at Sonipat in turn informed the petitioner vide notice under Section 142 (1) of the Income Tax Act, 1961.

4. Thereafter, there was exchange of communication between the two Commissioners of Income Tax at Delhi and Sonipat and the order dated 27.10.2017 under Section 127 of the Act, transferring the case to the Income Tax Officer, Ward No.4, Sonipat was passed. However, this was without notice to the petitioner and no opportunity to contest the transfer was afforded. This being the accepted and admitted position, there is violation of Section 127 of the Act in not giving the opportunity to the petitioner.

5. In these circumstances, we cancel and quash the transfer order dated 31.10.2017 issued under Section 127 of the Act.

6. We further direct that the petitioner may make written submissions and the petitioner or her authorised representative will appear before the Income Tax Officer, Ward No. 71 (1), New Delhi on 18.01.2018 at 11:30 a.m. Thereafter, compliance with the mandate of Section 127 of the Act would be made.

7. We clarify that no notice would be required to serve the petitioner for 18.01.2018. It is for the petitioner to avail the opportunity.

8. The writ petition is disposed of in the aforesaid terms with no order as to costs and without expressing any opinion on merits.

Dasti under signature of the Court Master.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

JANUARY 11, 2018/b