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ORDER SHEET

WPO 1089 of 2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MSP STEEL AND POWER LIMITED
VS
NATIONAL FACELESS ASSESSMENT CENTRE DELHI (EARLIER NATIONAL E-ASSESSMENT CENTRE, DELHI) AND ORS.

BEFORE:

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date : 9th November, 2021.

(Via Video Conference)

Mr. J.P. Khaitan, Sr. Adv.

Ms. Swapna Das, Adv.
Mr. Siddharth Das, Adv.
... for the Petitioner
Mr. S. Roy Chowdhury, Adv.
Mr. Madhu Jana, Adv.
...for the respondents

The Court: Heard both the parties.

In this matter petitioner has challenged the impugned assessment order dated 28th September, 2021 under Section 147 read with 144B of the Income Tax Act, 1961 on the ground of gross violation of principles of natural justice by not affording effective opportunity of hearing to the petitioner. In support of contention of the petitioner it has placed documents which are part of the writ petition.

It appears from records that show cause notice was issued to the assessee petitioner as to why the proposed variation should not be made in the draft assessment relating to assessment year 2013-14 which was received by the petitioner on 27th September, 2021. It appears from the said show cause notice that the assessee petitioner was asked to submit response to the same through registered e-filing account by 23.59 hours of 28th September, 2021.

It is the case of the petitioner that though time was granted to the petitioner till 23.59 hours on 28th September, 2021 to give response to the said show cause notice but the official portal for filing such reply was closed much before the time allotted to the petitioner. That could be established from the correspondence made by the petitioner, dated 28th September, 2021 at 8.21 p.m. to the respondent Authorities about the difficulties the petitioner was facing in filing response to the show cause notice in the official IT Portal as appears from page 221 being annexure P-11 to the writ petition.

It appears from the records being annexure P-12 to the writ petition that on 28th September, 2021 at 9.03 p.m. petitioner received that impugned assessment order dated 28th September, 2021. It is strange how the impugned assessment order could be passed and e-mailed to the petitioner on 28th September, 2021 at 9.03 p.m. when time to file response to the show cause notice was till 11.59 p.m. on 28th September, 2021 and in the evening itself its IT portal was closed because of which petitioner could not file its response to the said show cause notice in question.

Considering these facts and submission of Mr. Chowdhury, learned advocate appearing for the respondent Income Tax Authorities and that he is not in a position to contradict these facts appear from records and could not deny the allegation of the petitioner substantiated by records, the impugned order dated 28th September, 2021 is set aside with liberty to the assessing officer concerned to pass a fresh assessment order in accordance with law by giving effective opportunity of hearing to the petitioner and observing principles of natural justice.

With these observations and directions, this writ petition being WPO 1089 of 2021 is disposed of.

(MD. NIZAMUDDIN, J.)

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