IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

210 (2 cases)

Decided on: 30.9.2021

CWP-16247-2021(O&M)

Apeejay Education Society ....Petitioner

VS

National Faceless Assessment Centre ....Respondent

CWP-16228-2021(O&M)

Apeejay Education Society ....Petitioner

VS

National Faceless Assessment Centre ....Respondent

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Salil Kapoor, Advocate
for the petitioner.

Mr. Denesh Goyal, Advocate
Sr. Standing counsel for the respondent.

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AJAY TEWARI, J.(Oral)

1. Vide this common order we shall dispose of above said two writ petitions as the common question of law and facts are involved therein. For the sake of convenience, facts are being taken from CWP-16247-2021.

2. By this petition the petitioner has prayed for quashing and setting aside the impugned assessment order dated 07.06.2021 (Annexure P-17) passed under Section 143 (3) read with Section 144B of the Income Tax Act 1961 (for short 'the Act') and demand notice

issued under Section 156 of the Act for the assessment year 2017-18 and consequential proceedings thereon.

3. On 23.8.2021 the following order was passed :-

> "*The primary contention of the learned counsel for the petitioner is that right since 2019 when the re-assessment proceedings were started various notices were issued under Section 142 of the Income Tax Act to provide different types of information and data which were duly complied with by the petitioner.*
>
> *On 23.4.2021 a show cause notice was issued whereby 3 days time was granted to the petitioner to file reply which was in any case extremely short because 23.4.2021 happened to be a Friday and the response had to be filed by Monday. On 26.4.2021 the petitioner requested for more time to file reply to show cause notice. No response was received but a fresh notice dated 28.5.2021 (Friday) was issued directing the petitioner to file reply by 30.5.2021. The petitioner again requested that during this interregnum his Chartered Accountant had been tested positive for COVID-19, had been hospitalized, and was, at that time suffering from various related ailments. The petitioner also brought to the notice of the respondents that there was no pressing urgency insomuch as the assessment could be completed by 30th June, 2021 and prayed that some more time be granted, however, instead of granting more time the impugned order denying the petitioner exemption and assessing it to tax was passed on 7th June, 2021.*
>
> *Notice of motion.*
>
> *On asking of the Court, Mr. Vivek Sethi, Standing counsel appears and accepts notice on behalf of the respondent.*

Let the respondent file a short reply addressing only above-mentioned facets.

Learned counsel for the respondent seeks three weeks' time to file reply. We put it to him that if the Income Tax Department thinks that two days time is enough to file reply in case of assessees why does he want so much time to file reply. Therefore, we reject the prayer for granting more time and adjourned the matter to 31.8.2021.

A photocopy of this order be placed on the file of connected case."

4. Thereafter, response was filed whereby it was projected that this matter had been hanging fire since the year 2020 and several opportunities were given to petitioner before issuance of assessment order and the petitioner has an alternative remedy to file an appeal. Counsel appearing for revenue pleads that on 28.4.2021, the matter was adjourned for four weeks on the specific request of the learned counsel for the petitioner (though it was the contention of the learned counsel for the petitioner that no intimation was provided to him about this adjournment). Thereafter, on 28.5.2021 (Friday) the petitioner was again issued notice to file its response within two days i.e. By 30.5.2021 (Sunday). Pursuant to that, the petitioner addressed the communication to the respondent to the effect that the Chartered Accountant of the petitioner was diagnosed positive with COVID-19. Along with the writ petition, the petitioner has also placed on record the affidavit of the Chartered Accountant as well as the entire medical record showing that the Chartered Accountant was admitted in hospital on 3.5.2021 and discharged on 8.5.2021 and after discharge he was advised for home

isolation and to follow up after 10 days. It is also not disputed that by 3rd of May, the Central Government had extended the limitation for finalizing the assessment from 31.3.2021 to 30.6.2021. Consequently, it was not a case where the revenue could not give any more time. In view of these peculiar facts and circumstances of the case, we deem it appropriate to hold that the non-grant of time was not justified.

5. Learned counsel for the petitioner today has stated that fortunately the Chartered Accountant is now well and on or before 14.10.2021 the petitioner will file whatever response it wants to file so that the assessment can be carried out without any further delay and the petitioner will not raise any objection regarding delay.

6. Consequently, we deem it appropriate to allow the writ petition and set aside the impugned assessment order dated 07.06.2021 and demand notice on the statement of the learned counsel for the petitioner that the final response will be filed on or before 14.10.2021 and direct the respondent to pass fresh assessment order in accordance with law.

7. Since the main cases have been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(ALKA SARIN)
JUDGE

30.9.2021
anuradha

Whether speaking/reasoned - Yes
Whether reportable - Yes