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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5060/2021**

BL GUPTA CONSTRUCTION PRIVATE LIMITED Petitioner

Through: Mr. Ved Jain, Advocate with
Mr. Richa Mishra, Advocate.

versus

NATIONAL E-ASSESSMENT CENTRE & ORS. Respondents

Through: Mr. Kunal Sharma, Advocate with
Ms. Zehra Khan and Mr. Shubhendu
Bhattacharyya, Advocates.

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Date of Decision: 10th September, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

MANMOHAN, J (Oral):

1. Present writ petition has been filed challenging the assessment order, notice of demand as well as penalty notice under Section 271AAC all dated 25th March, 2021.
2. Mr. Ved Jain, learned counsel for the petitioner states that vide show cause notice dated 18th March, 2021, the petitioner was called upon to respond to the draft assessment order till 23:59 hours on 26th March, 2021. He states that prior to the date stipulated in the show cause notice, the impugned assessment order was passed on 25th March, 2021. He also states that on the very same day, the notice of demand as well as penalty notice was issued to the petitioner.
3. Mr. Kunal Sharma, learned counsel for the respondents prays for some further time to file a counter affidavit and obtain instructions.

4. However, we find that the notice in the present writ petition had been issued on 29th April, 2021 and the matter was adjourned to 21st May, 2021. On 21st May, 2021, Mr. Sharma had been given further time to file a counter affidavit and the interim stay granted by this Court was made absolute. However, till date, no counter affidavit has been filed.

5. This Court is of the view that the respondents have had sufficient opportunity to file a counter affidavit. Consequently, this Court has no other option but to proceed ahead with the matter.

6. Keeping in view the unrebutted averments in the writ petition, this Court is of the view that there has been a breach of principles of natural justice, inasmuch as, prior to the end date given in the show cause notice of 26th March, 2021, the impugned assessment order had been passed on 25th March, 2021. Consequently, the impugned assessment order, notice of demand as well as penalty notice dated 25th March, 2021 are quashed and the matter is remanded back to the Assessing Officer and he is directed to decide the same in accordance with law as expeditiously as possible. Petitioner is directed to file its reply to the show cause notice and draft assessment order within three working days. To facilitate filing of the said reply, AO is directed to open ITBA portal so that the petitioner can file its reply.

7. With the aforesaid directions, present writ petition stands disposed of.

MANMOHAN, J

NAVIN CHAWLA, J

SEPTEMBER 10, 2021/TS