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

+ **W.P.(C) 5185/2021& CM APPL. 15916/2021**

SAMS FACILITIES MANAGEMENT

PRIVATE LIMITED

..... Petitioner

Through: **Mr. Manuj Sabharwal, Advocate.**

versus

NATIONAL FACELESS ASSESSMENT CENTRE & ANR.

..... Respondents

Through: **Mr. Ruchir Bhatia, Sr. Standing
Counsel.**

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Date of Decision: 13th August, 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. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the impugned assessment order dated 21st April 2021 passed by Respondent No. 1 under Section 143(3) read with 144B of the Income-tax Act, 1961 (for short 'the Act').
3. Mr. Manuj Sabharwal, learned counsel for the Petitioner states that the impugned assessment order dated 21st April 2021 has been passed, without adherence to the statutory provisions contained in clauses (xiv) to (xvi) of Section 144B (1), and 144B (9) of the Act.

4. It is the petitioner's claim that the impugned assessment order was passed without issuing a draft assessment order and the variation made in the declared income was carried out without issuance of a show cause notice. Thus the contention is that the impugned assessment order had been passed in violation of the aforesaid provisions of the Act and is *non est* in law.

5. Per contra, Mr. Ruchir Bhatia, learned counsel for the respondents submits that Section 144B of the Act does not apply as the assessment year in issue is 2018-2019.

6. In rejoinder, learned counsel for the petitioner relies on the circular issued by the CBDT dated 31st March, 2021, which is appended at pages 103-107 of the paper book to establish that the provisions of Section 144B of the Act would apply to even those proceedings, which were pending, on 1st April 2021 and hence would be applicable to the Petitioner's assessment as well.

7. Having heard learned counsel for the parties, this Court is of the opinion that in view of the Circular dated 31st March, 2021 issued by CBDT, Section 144B of the Act would apply to even those assessment proceedings which related to assessment years prior to 2021 provided they were pending disposal on 1st April, 2021.

8. This Court is also of the view that Section 144B(1)(xvi)(b) mandatorily provides for issuance of a prior show cause notice and draft assessment order before issuing the final assessment order. The relevant portions of Section 144B(1)(xvi)(b) as well as Section 144B(9) of the Act are reproduced hereinbelow:-

(I) $xxxx$ $xxxx$ $xxxx$
 $xxxx$ $xxxx$

xxxx xxxxx xxxxx

xxx xxx xxx

9. Since in the present case no prior show cause notice as well as draft assessment order had been issued, there is a violation of principles of natural justice as well as mandatory procedure prescribed under the “Faceless Assessment Scheme”.

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Signing Date: 15.08.2021
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11. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

NAVIN CHAWLA, J

AUGUST 13, 2021
AS

