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

% *Decision delivered on: 03.06.2021*

\+ **W.P.(C) 5250/2021 & CM No. 16134/2021**

DEEPAK GARG ..... Petitioner

Through: Mr. Gautam Jain, Mr. Mayank Jain, Mr. Parmatma Singh and Mr. Madhur Jain, Advs

versus

UNION OF INDIA & ANR. ..... Respondents

Through: Mr. Bhagwan Shukla, CGSC for R-1/UOI.
Mr. Ruchir Bhatia, Advocate along with Mr. Shlok Chandra, Ms. Mansie Jain and Mr.Shrey Chakrobatry, Advs. for revenue/R-2.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MR. JUSTICE TALWANT SINGH

RAJIV SHAKDHER, J. (ORAL):

[Court hearing convened via video-conferencing on account of COVID-19]

1. Mr. Shlok Chandra, who appears for respondent no.2/revenue, which is the contesting respondent, says that he does not wish to file a counter-affidavit and will argue in the matter on the basis of the record, presently available with the court.

2. Thus, with the consent of counsel for the parties, the writ petition is taken up for hearing and final disposal.

2.1. On the previous date, i.e., 10.05.2021, we had sketched out the broad contours of the case. For the sake of convenience, the relevant part is extracted hereinafter: -

> *"1. Counsel for the petitioner, Mr. Gautam Jain, submits that the impugned assessment order dated 27.04.2021, concerning assessment year ('AY') 2018-2019, deserves to be set aside as there has been a breach of principles of natural justice.*
> *1.1 In this behalf, Mr. Jain has drawn our attention to the following dates and events:*
> *1.2 According to Mr. Jain, the show cause notice-cum-draft assessment order dated 22.04.2021 required the petitioner to file its response by 23:59 hours on 26.04.2021.*
> *1.3 Mr. Jain says that the petitioner made a request for adjournment on 26.04.2021 via the revenue's e-portal. Mr. Jain states, accommodation of fifteen days was sought, as Delhi was in lockdown since 19.04.2021, due to which the assessee was not able to access his records.*
> *1.4 Besides this, Mr. Jain says that the request for accommodation was sought, as the chartered accountant/counsel of the petitioner had been afflicted with COVID-19.*
> *1.5 Mr. Jain says that it was also brought to the notice of the Assessing Officer that the limitation for passing the assessment order had been extended by the CBDT till 30.06.2021.*
> *2. It appears that the Assessing Officer disregarded the request for adjournment made by the petitioner and passed the impugned assessment order, as noticed above, on 27.04.2021.*
> *2.1We are, therefore, of the prima facie view that there has been a breach of principles of natural justice, as the impugned assessment order dated 27.04.2021, was passed without dealing with request made by the petitioner for adjournment".*

2.2. The facts adverted to in our order dated 10.05.2021, are not in dispute. In any case, since the assertions made in the writ petition are supported by an affidavit, we would have to accept the same as being correct in view of the counter-affidavit not having been filed by the respondents.

3. Thus, the crux of the matter is: whether the timeframe granted to file reply/objections to the show cause notice-cum-draft assessment order was narrow, given the fact that there was a lockdown imposed in Delhi, since 19.04.2021, and the circumstances brought fore by the petitioner?

3.1. To our minds, this issue attained greater criticality, from the point of view of the petitioner, as his request for accommodation, which was tendered on 26.04.2021, was not dealt with by the Assessing Officer (in short 'AO'), and the AO proceeded to pass the impugned assessment order on 27.04.2021.

3.2 In our opinion, the AO could have easily accommodated the petitioner, in view of the fact that the limitation for passing the assessment order stood extended by the Central Board of Direct Taxes till 30.06.2021.

3.3. We are, thus, of the opinion that given the circumstances, which have been adverted to in the writ petition, the impugned assessment order cannot be sustained, as it compromised the petitioner's right to effectively contest the position taken by the respondent/revenue, *in* its show cause notice-cum-draft assessment order dated 22.04.2021.

3.4. Accordingly, the impugned assessment order dated 27.04.2021, concerning the assessment year 2018-2019, is set aside. Liberty is, however, given to the AO to take next steps in the matter, *albeit,* as per law.

4. The writ petition and the pending application are disposed of in the aforesaid terms.

RAJIV SHAKDHER, J

TALWANT SINGH, J

JUNE 3, 2021/*nk*

Click here to check corrigendum, if any