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

Date of Decision: 06.08.2021

\+ **W.P.(C) 6131/2021 & CM APPL. 19413/2021**

URBAN IMPROVEMENT CO. PVT. LTD. ..... Petitioner

Through: Mr.P. Roychaudhuri, Adv.

versus

NATIONAL FACELESS ASSESSMENT CENTRE DELHI ..... Respondent

Through: Mr.Puneet Rai, Sr. Standing Counsel for Income Tax Department with Ms.Adeeba Mujahid, Adv.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE NAVIN CHAWLA

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 u/s 143(3), the Impugned Notice of Demand issued u/s 156 of the Income Tax Act, 1961 [the Act], both dated 23rd April, 2021 and the Show Cause Notice for Penalty dated 09th June, 2021 under Section 270A of the Act issued by the Respondent in the Petitioner's case for the Assessment Year 2018-19.

3. Learned counsel for the Petitioner states that there has been a violation of principles of natural justice as the Petitioner due to covid-19 pandemic was prevented from furnishing a response to the Show

Cause Notice and file objections to the Draft Assessment Order, for reasons beyond its control and as such, the impugned order operates to the prejudice of the Petitioner.

4. He states that though the Show Cause Notice/Draft Assessment Order was issued on 19th April 2021 requiring the Petitioner to explain by 22nd April 2021 as to why the assessment should not be completed as per the Draft Assessment Order, yet the petitioner could not file a response as the petitioner's office was closed due to a lockdown w.e.f. 19th April, 2021, in Delhi and as the petitioner's Chartered Accountant was suffering from Covid from 10th April, 2021. In support of his contention, learned counsel for the petitioner has drawn this Court's attention to the affidavit of the Chartered Accountant, Shri Uma Shanker Gupta, as well as his medical record and the affidavit of the Shri Bharat Bhushan, Chairman and Whole Time Director ,nominated by the Government of India for the petitioner company.

5. Mr.Puneet Rai, leaned counsel for the respondent states that the petitioner has an alternative effective remedy by way of an appeal.

6. Having perused the paper book, this Court is of the view that as the petitioner's office was closed due to lockdown and as the petitioner's Chartered Accountant was suffering from Covid-19, the petitioner did not get an effective opportunity to respond to the Draft Assessment Order and show-cause notice dated 19th April, 2021.

7. It is a settled law that when there is a violation of principles of natural justice, the availability of an appellate remedy does not operate as a bar to the maintainability of the writ petition. Consequently the Impugned Assessment, Notice of Demand both dated 23rd April, 2021

and the Show Cause Notice for Penalty dated 09th June, 2021 for the assessment year 2018-19 are set aside and the matter is remanded back to the Respondent for taking necessary steps in accordance with law. Registry is directed to communicate a copy of this order to the Respondent for information and necessary action.

8. With the aforesaid directions, the present petition along with pending application stands disposed of.

9. 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 6, 2021/*rv*