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

\+ W.P.(C) 6977/2021 & CM APPL. 22034/2021

CENTUM FINANCE LIMITED ..... Petitioner

Through: Mr. Rakesh Gupta, Advocate with Mr. Somil Agarwal, and Ms. Tani Malik, Advocates.

versus

NATIONAL FACELESS ASSESSMENT CENTRE DELHI(EARLIER NATIONAL E- ASSESSMENT CENTRE & ANR. ..... Respondents

Through: Mr. Kunal Sharma, Sr. Standing Counsel with Ms. Zehra Khan and Mr. Shubhendu Bhattacharyya, Advocates.

% Date of Decision: 12th August, 2021

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

<u>J U D G M E N T</u>

<u>MANMOHAN, J</u>: (Oral)

1. The petition has been heard by way of video conferencing.

2. Present writ petition has been filed challenging the assessment order and demand notice dated 11th June, 2021 passed by the National Faceless Assessment Centre, Delhi under Section 143(3) read with Section 144B. Petitioner also seeks stay on the demand arising out of the impugned assessment order.

3. Learned counsel for the Petitioner states that the impugned assessment order has been passed without observing the principles of natural

justice, inasmuch as, the compliance date for show cause-cum-draft assessment order dated 23rd May, 2021 was 07th June, 2021. He points out that the action of the Respondent in passing the impugned assessment order was in violation of the directions issued vide Notification No. 486/2020-21 dated 19th May 2021 by Directorate of Income Tax (Systems) and CBDT press release dated 20th May, 2021 which inter alia provided regarding non-availability of e-filing services from 01st June, 2021 to 06th June, 2021 and also provided that *"All officers may be directed to fix any compliances only from 10th June onwards to give taxpayers time to respond on the new system. If they have already scheduled any hearing or compliance which requires submissions online during this period, they may prepone or adjourn the hearing and reschedule the work items after this period, etc"*.

4. Learned counsel for the Petitioner submits that the impugned assessment order has been passed without observing the principles of natural justice, inasmuch as, due to launch of new income tax e-filing portal, the existing portal was discontinued from 01st June, 2021 and the new income tax e-filing portal did not work after the launch and, therefore, compliance till 07th June, 2021 could not be made and the impugned assessment order was passed on 11th June, 2021.

5. On 26th July, 2021, this Court had issued notice to the Respondents. Mr. Kunal Sharma, learned counsel on behalf of the respondents had sought time to obtain instructions. The matter was adjourned to 02nd August, 2021, on which date, Mr. Kunal Sharma had again sought time to obtain instructions. The matter was then adjourned for today. The position is no different as Mr. Kunal Sharma, again seeks an adjournment to obtain instructions.

6. We are of the view that the Respondents have had more than sufficient time to obtain instructions. Consequently, the request for adjournment of Mr. Kunal Sharma is declined.

7. Having perused the paperbook, we are of the view that the impugned assessment order has been passed without providing adequate opportunity to submit reply in response to the show cause-cum-draft assessment order dated 23rd May, 2021.

8. We also feel that as the timeframe set out in the show cause notice dated 23rd May, 2021 was extremely narrow and since the e-filing portal was allegedly dysfunctional, there are good enough reasons to set aside the impugned assessment order, with liberty to the Assessing Officer to continue the assessment proceedings from the stage at which they were positioned when the show cause notice dated 23rd May, 2021 was issued. It is ordered accordingly.

9. We clarify that the Respondent/Revenue will be at liberty to call for further information, if thought necessary, before proceeding to frame the Assessment Order. With the aforesaid directions, the present writ petition along with pending application stands disposed of

10. 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 12, 2021/TS