$~35

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

\+ **W.P.(C) 7785/2021 & CM APPL. 24273-74/2021**

PARDESI DEVELOPERS PRIVATE LIMITED

..... Petitioner

Through: Dr.Shashwat Bajpai & Mr.Sharad Agarwal, Advs.

versus

NATIONAL FACELESS ASSESSMENT CENTRE,

..... Respondent

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

% *Date of Decision: 05th August, 2021*

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 Assessment order, notice of demand and notice for initiation of Penalty proceeding all dated 13th February 2021 passed by the National Faceless Assessment Centre, Delhi under Section 143(3) read with Sections 143(3A) & 143(3B), Section 156 and Section 270A of the Income Tax Act, 1961 [the Act].

3. Learned counsel for the Petitioner states that the Respondent passed the impugned Assessment Order without issuing any show cause notice and draft assessment order as stipulated in the Faceless Assessment Scheme. Consequently, he submits that the Impugned Order is violative of the principles of natural justice and the Faceless Assessment Scheme.

4. Issue Notice. Mr. Ruchir Bhatia, learned counsel for the Respondent accepts notice.

5. He states that the petitioner had been issued a number of notices prior in time and therefore, there is no violation of principles of natural justice. In support of his contention he refers to the notice dated 17th November, 2020 issued to the petitioner under Section 142(1) of the Act.

6. This Court is of the view that the Faceless Assessment Scheme mandatorily provides for issuance of a prior show cause notice and draft assessment order before issuing the final assessment order. The relevant portion of the scheme is reproduced hereinbelow:-

> *"(v) where a case is assigned to the assessment unit, it may make a request to the National e-assessment Centre for*
>
> *(a) obtaining such further information, documents or evidence from the assessee or any other person, as it may specify;*
>
> *(b) conducting of certain enquiry or verification by verification unit; and*
>
> *(c) seeking technical assistance from the technical unit;*
>
> *xxx xxx xxx*
>
> *(xiv) the assessment unit shall, after taking into account all the relevant material available on the record make in writing, a draft assessment order or, in a case where intimation referred to in clause (xiii) is received from the National e-Assessment Centre, make in writing, a draft assessment order to the best of its judgment, either accepting the income, or sum payable by, or sum refundable to, the assessee as per his return or modifying the said income or sum, and send a copy of such order to the National e-assessment Centre;"*

7. It is settled law that the Government is bound to follow the rules and standards they themselves had set on their pain of their action being invalidated [See: ***Amarjit Singh Ahluwalia Vs. State of Punjab & Ors.; 1975 (3) SCR 82*** and ***Ramana Dayaram Shetty Vs. International Airport Authority of India & Ors***.; ***(1979) 3 SCC 489***.

8. 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 "Faceless Assessment Scheme".

9. Keeping in view the aforesaid facts, the impugned Assessment order, notice of demand and notice for initiation of Penalty proceeding dated 13th February 2021 passed by the National Faceless Assessment Centre, Delhi under Section 143(3) read with Sections 143(3A) & 143(38), Section 156 and Section 270A of the Act, are set aside and the matter is remanded back to the Assessing Officer, who shall issue a draft assessment order and thereafter pass a reasoned order in accordance with law. With the aforesaid direction, 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 5, 2021/*rv*