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

\+ W.P.(C) 8054/2021

FAQIR CHAND (THROUGH HIS LEGAL HEIR SH. KAPIL MUNI) ..... Petitioner

Through: Mr. Amol Sinha, Advocate with Mr. Nitin Gulati and Mr. Ashvini Kumar, Advocates.

versus

NATIONAL E-ASSESSMENT CENTRE, DELHI & ANR. ..... Respondents

Through: Mr. Sanjay Kumar, Advocate with Ms. Easha Kadiyan, Advocate

% Date of Decision: 09th 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)

CM APPL. 25044/2021 (exemption)

Allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) 8054/2021 & CM APPL. 25043/2021

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

2. Present writ petition has been filed challenging the Assessment Order dated 18th June, 2021 passed under Section 143(3) read with Section 144B of the Income Tax Act, 1961 ('the Act') for assessment year 2018-19.

3. Learned counsel for the Petitioner states that the Respondent No.1 passed the assessment order dated 18th June, 2021 under Section 143(3) read with Section 144B of the Act by making an addition of Rs. 1,06,95,929/- (Rupees One Crore Six Lakhs Ninety Five Thousand Nine Hundred and Twenty Nine Only) against the returned income of Rs. 27,59,656/- (Rupees Twenty Seven Lakhs Fifty Nine Thousand Six Hundred and Fifty Six Only) resulting in total assessed income of Rs. 1,34,55,590/ (Rupees One Crore Thirty Four Lakhs Fifty Five Thousand Five Hundred and Ninety Only).

4. He contends that Respondent No.1 apparently copied the addition proposed in Show Cause Notice dated 09th June, 2021 in the final assessment order and failed to give any reasons for the same. He emphasises that the Respondent failed to appreciate that the Petitioner was not in a position to file its reply to Show Cause Notice dated 09th June, 2021 till 17th June, 2021, the time stipulated therein, as the portal was not working since 01st June, 2021.

5. He also points out that no Show Cause Notice was served upon the Petitioner as legal heir of the deceased-assessee despite intimation of death of the assessee to the Respondent No. 1 on 2nd March, 2021.

6. Issue notice. Mr. Sanjay Kumar, learned counsel for the Respondents accepts notice. He states that he has no objection to the matter being remanded back for consideration of the Petitioner's reply.

7. Having heard learned counsel for the parties, this Court is of the view that final assessment order has been passed in violation of principles of natural justice inasmuch as the petitioner did not have a reasonable opportunity to file a reply to the Show Cause Notice and draft assessment order dated 09th June, 2021, as the portal of the Respondent was not working

between 1st June, 2021 and 17th June, 2021 i.e. the last date of filing the reply to the Show Cause Notice-cum-draft assessment order.

8. Consequently, the impugned assessment order dated 18th June, 2021 is set aside and the matter is remanded back to the Respondent for passing a fresh assessment order in accordance with law and after considering the Petitioner's reply. Petitioner is directed to file its reply to the Show Cause Notice and draft assessment order dated 09th June, 2021 on the portal of the Respondent within ten days. Respondent in turn is directed to facilitate the filing of the said reply on the portal on behalf of legal heir of the deceased-assessee.

9. With the aforesaid directions, the present writ petition and application stand 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 9, 2021
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