$~**S-61**

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

\+ **W.P.(C) 14349/2021 & CM APPLs. 45223-224/2021**

M/S ALPHA CORP DEVELOPMENT PRIVATE LIMITED ..... Petitioner

Through: Mr.Debesh Panda, Advocate.

versus

ASSISTANT COMMISISONER OF INCOME TAX ..... Respondent

Through: Mr.Sanjay Kumar, Advocate.

% Date of Decision: 15th December, 2021.

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

MANMOHAN, J. (Oral)

1. Present writ petition has been filed challenging the demand notices dated 22nd November, 2021 and 06th December, 2021.

2. Learned Counsel for the Petitioner states that the Respondents have threatened to initiate recovery proceedings against the Petitioner if the alleged outstanding demand of Rs. 1,02,12,560/- is not paid within seven working days.

3. Learned Counsel for the Petitioner states that in the computation sheet supplied with the assessment order, there are various errors apparent on the face of the record. He states that the Petitioner's income under the head "Income from Business and Profession" was taken to be Rs.19,43,61,300/-, whereas in the ITR the amount was Rs.14,91,74,703/-, which created a differential income of Rs.4,51,86,597/-. He points out that the TDS credit had been taken to be only Rs.56,29,668/-, even when in the ITR it was

disclosed as Rs.56,69,044/-, thus creating a differential amount of Rs.39,376/-.

4. Learned Counsel for the Petitioner states that though the rectification application was filed by the petitioner on 27th April, 2021 and the statutory period as contained in Section 154(8) has already expired prior to the issuance of the impugned notice, yet no decision has been rendered on the rectification application. He states that if the rectification applications are decided in the Petitioner's favour, there would be no demand against the petitioner and in fact the Petitioner would be entitled to refund.

5. Issue notice.

6. Mr.Sanjay Kumar, Advocate accepts notice on behalf of respondent. He states that he has no instructions in the matter.

7. Keeping in view the facts mentioned in the present writ petition, this Court disposes of the present writ petition by directing the respondent to decide the petitioner's rectification application in accordance with law within four weeks.

8. Needless to state that till the rectification order is passed, no recovery shall be made against the petitioner under the impugned demand notices.

9. This Court clarifies that it has not commented on the merits of the matter. The rights and contentions of all the parties are left open.

10. With the aforesaid direction and clarification, the present writ petition along with pending applications stands disposed of.

MANMOHAN, J

NAVIN CHAWLA, J

DECEMBER 15, 2021/TS