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

+ **W.P.(C) 6038/2022 & C.M.No.18125/2022**

RAHUL BIALA

..... Petitioner

Through: Mr.Ruchesh Sinha with Ms.Divya,
Advocates.

versus

INCOME TAX OFFICER WARD 61(1) DELHI & ANR.

..... Respondents

Through: Mr.Zoheb Hossain, senior standing
counsel with Mr.Vipul Agrawal and
Mr.Parth Semwal, Advocates.

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Date of Decision: 29th April, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

MANMOHAN, J (Oral):

1. Present writ petition has been filed challenging the assessment order dated 31st March, 2022 passed under Section 147 read with Section 144B of the Income Tax Act, 1961 (for short ' the Act') for the Assessment Year 2016-17.

2. Learned counsel for the Petitioner states that the Petitioner was not given reasonable time to file reply to the show cause notice which was issued only on 30th March, 2022 at 16:21 p.m. effectively giving the Petitioner only eight hours' time to file reply to the show cause notice. He

states that it was not possible to gather all the details of expenses incurred towards improvement of property, details of exemption claimed under Section 54 of the Act and the authentic supporting documents/evidences, which had been referred to in the draft assessment order.

3. Learned counsel for the Petitioner contends that the time gap between giving the show cause notice and passing of the reassessment order was only around twenty two hours which means that the Respondents considered the reassessment proceedings as an empty formality.

4. Today, on instructions, Mr.Zoheb Hossain, learned standing counsel for the Revenue states that *“since the matter was bounded by the limitation of time which got barred on 31st March, 2022, the proposed draft order along with show cause notice for proceedings was issued under Section 147 of the Act on 30th March, 2022 by providing opportunity for hearing fixed on or before 30th March, 2022 by 6.30 p.m.. However, due to paucity of time as stated above, the final assessment order in the case was passed only on 31st March, 2022 at 13:54:05 IST till the time the assessee has not objected/responded.”*

5. Having heard learned counsel for the parties, this Court is of the view that time of eight hours to file reply to the show cause notice was neither reasonable nor effective, as within this short time, the Petitioner could not have supplied relevant information and documents to substantiate his case. Consequently, this Court is of the view that in the present case, there has been violation of the principle of natural justice.

6. Accordingly, the impugned order is set aside and the Petitioner is directed to file his response to the show cause notice dated 30th March,

2022 on or before 13th May, 2022. The Respondent No.2 is directed to pass an assessment order within six weeks thereafter in accordance with law.

7. With the aforesaid directions, present writ petition along with pending application stands disposed of. The rights and contentions of all the parties are left open.

MANMOHAN, J

DINESH KUMAR SHARMA, J

APRIL 29, 2022
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