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

+ W.P.(C) 5771/2021 & C.M.No.18104/2021

K. K WINE

..... Petitioner

Through: Mr.Ruchesh Sinha, Advocate.

versus

NATIONAL E-ASSESSMENT CENTRE DELHI Respondent

Through: Mr.Abhishek Maratha, senior
standing counsel for the Revenue.

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Date of Decision: 18th July, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, J (Oral):

1. Present writ petition has been filed challenging the assessment order and demand notice dated 19th April 2021 as well as the subsequent penalty proceedings initiated by the Respondent under Section 270A of Income Tax Act, 1961 (hereinafter referred to as the 'Act') for the Assessment Year 2018-19.

2. Learned counsel for the Petitioner states that the impugned assessment order has been passed without adverting to the reply/objections filed by the Petitioner to the show cause notice-cum-draft assessment order for the Assessment Year 2018-19. He emphasises that since a very narrow window was made available to file the response/objections, the Petitioner



sought adjournment to file a response up to 15th April 2021. He submits that the impugned final assessment order dated 19th April 2021 was passed without advertent to the reply/objections filed by the Petitioner to the Show cause and draft assessment order. For this, learned counsel for the Petitioner draws our attention to paragraph 5 of the Assessment Order. Relevant portion of the same is extracted below:

"5. Accordingly, the assessee was duly show caused on 05/04/2021. Date fixed for compliance was 07/04/2021. However, no replies were filed."

3. In support of the plea that the reply/objections were filed, learned counsel for the Petitioner has, inter alia, drawn our attention to Annexure P-11, which is appended at page 119 of the paper book. The said annexure captures the screenshot of the e-filing portal maintained by the Income Tax Department (in short 'e-portal'). A perusal of Annexure P-11 shows that, the Petitioner, apparently, filed its reply/objections, on 12th and 13th April 2021 i.e. prior to the extended date of compliance asked for by the petitioner.

4. Learned counsel for the Petitioner also points out that the CBDT, vide Notification No. 10/2021 in S.O. 966 (E) dated 27th February 2021 had extended the date for the passing of assessment or reassessment orders under the Income Tax Act, which were getting time-barred on 31st March 2021 to 30th April 2021.

5. *Per contra*, learned counsel for the Respondent states that a shorter time frame was given to the Petitioner as the Petitioner had not complied with the notices issued under Sections 142(1) and 143(2) of the Act.

6. Having heard learned counsel for the parties, this Court is of the view that as per Section 144B(1) (xxiv) of the Act, the assessment order is to be



passed only after considering the reply of the assessee. Since in the present case, the replies preferred by the Petitioner, though on record, were not considered before passing the impugned assessment order, there is a violation of the mandatory procedure prescribed in “Faceless Assessment Scheme” and stipulated in Section 144B of the Act.

7. Keeping in view the aforesaid facts and mandate of law, the impugned assessment order dated 19th April, 2021 as well as the notice of demand and penalty proceedings for the Assessment Year 2018-19 are set aside and the matter is remanded back to the Assessing Officer, who shall consider the replies/objections of the Petitioner and thereafter pass a reasoned order in accordance with law within eight weeks.

8. With the aforesaid directions, the present writ petition along with pending application stands disposed of.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

JULY 18, 2022
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