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

+ W.P.(C) 11128/2022 & CM APPLs.32656-32657/2022

HASINA NURUDDIN JETPURWALA Petitioner

Through: Mr. Sankalp Malik and Ms. Rudrali
Patil and Mr. Sanket Bora, Advocates

versus

THE ASSISTANT COMMISSIONER OF INCOME TAX
INTERNATIONAL TAX 2- 1 -2 DELHI AND ORS

..... Respondents

Through: Mr. Sanjay Kumar and Ms. Easha
Kadian, Advocates for Revenue.
Mr. N.K. Aggarwal, Advocate for
R-3/UOI

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Date of Decision: 27th 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 dated 25th May, 2022 for Financial Year 2016-2017 and all notices as well as actions taken in pursuance thereto by the Respondents.
2. Learned counsel for the Petitioner states that between 31st March, 2022 and 9th February, 2022, the Respondents had issued notices to the



Petitioner at an incorrect and unrelated email address i.e. INFO@CAKIRANDEODNAR.COM

3. He contends that the Respondents had erred in passing the impugned assessment order without considering the submissions filed by the Petitioner in her detailed reply within the time given by the draft assessment order under Section 144C of the Income Tax Act, 1961 (for short 'Act') dated 20th March, 2022. He states that the assessee duly complied with the said notice, despite there being no valid service of notices under Sections 148 and 142(1) as well as draft assessment order. He emphasises that the Assessment order is a verbatim copy of the draft assessment order ignoring the exhaustive reply filed by the Petitioner.

4. Learned counsel for the Petitioner further states that even otherwise the reasons given in the impugned order are factually incorrect as neither any property was purchased by the assessee nor an amount of Rs.12,60,23,440/- was paid as consideration in the said year.

5. He lastly states that the Petitioner was not obligated to follow the route of filing the objections before the Dispute Resolution Mechanism ('DRP') and had in her reply dated 16th April, 2022 clarified that she will not be filing any objections before the DRP and would be filing objections before the Assessing Officer and would file an appeal before the Commissioner of Income Tax (Appeals) ['CIT(A)'] in the event she is aggrieved.

6. Issue notice. Mr. Sanjay Kumar, learned counsel for the Revenue accepts notice. He states that Petitioner would have full opportunity to urge all her contentions and submissions before the appellate authority i.e. CIT(A).



7. Having heard learned counsel for the parties, this Court is of the view that, in the present instance, there has been a violation of the principles of natural justice. The replies filed by the Petitioner though available on the portal of the Income Tax Department were not considered by the Assessing Officer before passing the impugned order. On this short ground alone the assessment order dated 25th May, 2022 for the Financial Year 2016-17, demand notice issued under Section 156 of the Act and penalty notice issued under Section 271(1)(c) of the Act are set aside and the matter is remanded back to the Assessing Officer for a fresh decision within twelve weeks after considering the replies filed by the Petitioner. With the aforesaid direction, the present writ petition along with pending applications stands disposed of.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

JULY 27, 2022
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