06.01.2023.
p.b.
Sl. No.1-3.

W.P.A. 2883 of 2020
with
W.P.A. 2884 of 2020
with
W.P.A. 2889 of 2020

M/s. TDK India Pvt. Ltd.
Vs.
Deputy Commissioner of Income Tax & Anr.

Mr. Arijit Chakravarty,
Mr. Suryaneel Das,
Mr. Chiranjit Pal.
………for the petitioner.
Mr. S. Roy Chowdhury.
……….for the respondent.

Heard learned advocates appearing for the parties.

By these writ petitions, petitioner has challenged the impugned assessment orders dated 6th December, 2019 and the demand in all these writ petitions, WPA 2883 of 2020 relates to assessment year 2012-2013, WPA 2884 of 2020 relates to assessment year 2011-2012 and WPA 2889 of 2020 relates to assessment year 2013-2014. Common ground of challenge in all these writ petitions are that the impugned assessment orders under Section 143(3) of the Income Tax Act, 1961 have been passed in violation of Section 144C of the Act, since the same was not preceded by draft assessment which is mandatory in terms of Section 144C of the Act. In support of his contention, learned advocate representing the petitioner relies on an unreported decision of the Hon'ble Delhi High Court dated 7th September, 2017 in the case of Nokia India (P) Limited Vs. Additional Commissioner of Income Tax reported in (2018) 98 taxmann.com 373 (Delhi), wherein on the said ground, the impugned assessment order was set aside. Learned advocate for the petitioner further submits that Special Leave Petition (SLP) filed by the Revenue against the same was dismissed by the Hon'ble Supreme Court by order dated 14th May, 2018 in the case of Additional Commissioner of Income Tax Vs. Nokia India (P) Ltd. reported in (2018) 98 taxmann.com 374 (SC).

Mr. Roy Chowdhury, learned advocate representing the respondent/income tax authority concerned could not distinguish the aforesaid order of the Hon'ble Delhi High Court and the Hon'ble Supreme Court either on facts or on law rather he fairly submits that the cases of the petitioner herein are covered by the aforesaid orders.

Considering the facts and circumstances of this case, all these writ petitioners being WPA 2883 of 2020, WPA 2884 of 2020 and WPA 2889 of 2020 are disposed of by setting aside the impugned assessment orders and subsequent orders on the basis of the aforesaid impugned orders by set aside the same. However, setting aside of the impugned assessment orders will not be a bar on the part of the respondent income tax authority concerned to initiate any fresh assessment in future in respect of the aforesaid assessment years in accordance with law.

(Md. Nizamuddin, J.)