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

% *Date of decision: 23.01.2023*

\+ **W.P.(C) 801/2023**

SAMIR SARAN ..... Petitioner

Through: Mr Upvan Gupta, Advocate.

versus

NATIONAL FACELESS ASSESSMENT CENTRE & ANR. ..... Respondents

Through: Mr Sunil Agarwal, Sr. Standing Counsel.

**CORAM:**
**HON'BLE MR JUSTICE RAJIV SHAKDHER**
**HON'BLE MS JUSTICE TARA VITASTA GANJU**
**[Physical Hearing/Hybrid Hearing (as per request)]**

**RAJIV SHAKDHER, J.: (ORAL)**

**CM APPL. 3109/2023**

1. Allowed, subject to just exceptions.

**W.P.(C) 801/2023**

2. Issue notice.

2.1 Mr Sunil Agarwal accepts notice on behalf of the respondents/revenue.

3. In view of the directions that we propose to pass, Mr Agarwal says that counter-affidavit is not required to be filed. Therefore, with the consent of the counsels for the parties, the writ petition is taken up for final hearing and disposal, at this stage itself.

4. This writ petition is directed against assessment order dated

29.12.2022 passed under Section 143(3), read with Section 144B of the Income Tax Act, 1961 [in short, “the Act”] concerning Assessment Year (AY) 2021–22.

4.1 Besides this, challenge is also being laid to the notice of demand of even date i.e., 29.12.2022, issued under Section 156 of the Act and the consequential proceedings initiated under the Act.

5. The record, as made available to the court, shows that a show cause notice dated 20.12.2022 was served on the petitioner/assessee proposing an upward variation in income chargeable to tax.

5.1. The record also shows that the petitioner/assessee had filed a reply dated 22.12.2022, wherein, *inter alia*, apart from his defence on merits, he had also sought a personal hearing in the matter.

6. It appears that personal hearing was not granted to the petitioner/assessee before passing the impugned assessment order. Undoubtedly, grant of personal hearing is a mandatory requirement under Section 144B(6)(vii) of the Act.

7. In these circumstances, the impugned assessment order dated 29.12.2022 is set aside. Liberty is, however, given to the Assessing Officer (AO) to frame a fresh assessment order, albeit, after giving an opportunity to the petitioner/assessee of being heard in person.

7.1 To achieve this, the AO will issue a notice to the petitioner. The notice will set forth the date and time of the hearing and also provide a hyperlink to the petitioner to enable him to join the proceedings *via* video conferencing.

7.2 The aforesaid exercise will be completed at the earliest, though, not later than twelve weeks from the date of receipt of a copy of the instant judgment.

8. The writ petition is disposed of in the aforesaid terms.

9. We may indicate that we have not examined the matter on merits and therefore, the order passed today will not impact the assessment proceedings on merits.

10. Parties will act, based on the digitally signed copies of the order.

**RAJIV SHAKDHER, J**

**TARA VITASTA GANJU, J**

**JANUARY 23, 2023 /** tr

*Click here to check corrigendum, if any*