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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of decision: 25.04.2023***

\+ **W.P.(C) 4380/2023 and CM No.16877/2023**

VANEETA IMPEX PRIVATE LIMITED ..... Petitioner

Through: Mr. Mohit Chaudhary, Mr. Kunal Sachdeva and Ms. Muskan Kaul, Advocates

versus

NATIONAL E-ASSESSMENT CENTRE DELHI & ORS. ..... Respondents

Through: Mr. Puneet Rai, Sr. Standing Counsel with Mr. Ashvini Kumar and Ms. Madhavi Shukla, Jr. Standing counsels for Revenue
Ms. Bakshi Vinita, Sr. Panel Counsel, UOI for R-5

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)

1. On the previous date, we had heard the matter briefly. After hearing the counsel for the parties, we had broadly set out the contours of the case and the grievance of the petitioner/assessee.

2. For the sake of convenience, the relevant part of the order passed on the previous date, i.e., 10.04.2023, is set forth hereafter: -

> *"..2. This writ petition concerns Assessment Year (AY) 2018-19.*
> *3. The principal allegation against the petitioner is, that it has made bogus purchases and sales with an entity going by the name RCI*

> *Industries & Technology Limited [hereafter referred as "RCI"].*
> *4. Mr Mohit Chaudhary, who appears on behalf of the petitioner, says that the bogus purchases, alleged to have been made by the petitioner, has been valued at Rs. 3,13,92,478/-.*
> *5. Besides this, there is also an allegation of having made bogus sales to RCI. These transactions have been valued at Rs. 8,23,880/-.*
> *6. Mr Chaudhary says, that no personal hearing was granted to the petitioner, before the Assessing Officer (AO) passed the impugned assessment order dated 23.03.2023.*
> *7. To be noted, the said assessment order is marked as Annexure P-6, which is appended at page 82 of the case file. This order was passed under Section 147, read with Section 144B of the Income Tax Act, 1961.*
> *8 Mr Chaudhary says, that he will place the relevant documents on record, before the next date of hearing.*
> *8.1Leave in that behalf is granted.*
> *9. The documents, which the petitioner proposes to place on record, will be supported by an affidavit.*
> *9.1Copy of the same will be furnished to the counsel for the respondent/revenue, within the next two days.*
> *10.List the matter on 24.04.2023."*

3. Mr. Mohit Chaudhary, who appears on behalf of the petitioner/assessee, says that pursuant to order dated 10.04.2023, an additional affidavit, along with relevant document, has been placed on record.

3.1 A perusal of the affidavit and the document appended to it, which is a screenshot, shows that the petitioner/assessee had, in fact, made a request for personal hearing, which was successfully registered.

4. It appears that despite the request being made, the Assessing Officer (AO) did not grant hearing to the authorized representative of the petitioner/assessee.

5. Mr. Puneet Rai, senior standing counsel, who appears on behalf of the respondents/revenue, cannot but accept that there is a breach of the principles of natural justice.

6. Accordingly, the impugned assessment order dated 23.03.2023 and

the consequential notice of even date, i.e., 23.03.2023 is set aside. As a result, the penalty notice, which is also dated 23.03.2023, will collapse.

7. That said, the AO will have the liberty to carry out a *de novo* exercise. The AO will, however, issue notice to the petitioner/assessee, which will indicate the date and time of hearing.

8. We may also note that one of the prayers that the petitioner/assessee has made in the writ petition alludes to the issuance of directions to respondent no.2, i.e., the Resolution Professional concerned with RCI.

9. It is the grievance of the petitioner/assessee that the Resolution Professional has not responded to the notice dated 08.12.2022 issued by the AO under Section 133(6) of the Income Tax Act, 1961 [in short, "Act"].

10. Given this position, the AO will be at liberty to issue a fresh notice to RCI's Resolution Professional .

10.1 If such notice is issued, the Resolution Professional will comply with the same.

10.2 The AO will be at liberty to transmit the order passed by us to the RCI's Resolution Professional.

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

12. Pending applications shall also stand disposed of.

13. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

APRIL 25, 2023/yg