$~53

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

% *Date of decision: 24.04.2023*

+ **W.P.(C) 5141/2023 & CM APPL. 20087/2023**

M/S. RAG TRADE INDIA PVT. LTD ..... Petitioner

Through: Mr Samar Kachwaha, Mr Raghavendra M. Bajaj, Mr Agnish Aditya, Ms Shivangi Nanda, Ms Rini Mehra & Mr Anmol Agarwal, Advocates.

versus

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

Through: Mr Shivansh B Pandya, Jr Standing Counsel & Mr Utkarsh Tiwari, Advocate for 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. 20087/2023

1. Allowed, subject to just exceptions.

W.P.(C) 5141/2023

2. Issue notice.

2.1 Mr Shivansh B Pandya, learned counsel, accepts notice on behalf of the respondents/revenue.

3. In view of the directions that we propose to pass, Mr Pandya says that he does not wish to file a counter-affidavit and that he will argue based on the record, presently available with the Court. Therefore, with the consent of the counsels for the parties, the writ petition is taken up for hearing and final disposal, at this stage itself.

4. This writ petition concerns Assessment Year (AY) 2018-19.

5. The petitioner seeks to challenge the assessment order dated 28.03.2023 and the consequent notice of demand of even date i.e., 28.03.2023.

5.1 Besides this, challenge is also laid to the penalty notice bearing the same date i.e., 28.03.2023.

6. Counsel for the petitioner says that, apart from anything else, the impugned assessment order and the notices referred to hereinabove, are flawed, in law, on account of the fact that there has been a breach of principles of natural justice.

6.1 In this behalf, our attention has been drawn to the show-cause notice whereby variation in income is proposed, which is dated 13.02.2023.

6.2 A perusal of the show-cause notice shows that the petitioner was granted time to file a response by 16:30 Hrs. on 14.02.2023.

6.3. It appears that the petitioner did make a request for accommodation on the same date i.e., on 14.02.2023. Accommodation was sought by the petitioner till 26.02.2023.

6.4. Evidently, the Assessing Officer (AO) neither rejected the request, nor did he allow the same, and proceeded to pass the impugned assessment order.

7. Counsel for the petitioner says that, apart from a breach of principles

of natural justice, a perusal of paragraph 19 of the impugned assessment order would disclose that there is a reference to a show-cause notice dated 09.01.2023. It is asserted that no such show-cause notice was served on the petitioner.

8. Although Mr Pandya seeks to defend the impugned order and notices on the ground that there is an alternate remedy available to the petitioner by way of an appeal, we are not impressed with this submission.

9. According to us, since there has been a breach of principles of natural justice, the best way forward would be to set aside the impugned assessment order and notices, with liberty to the AO to take the next steps in the matter, in accordance with the law.

9.1 It is ordered accordingly.

10. The impugned assessment order and the notices are set aside.

11. Liberty is, however, given to the AO to carry out a *de novo* exercise, as per law.

12. The writ petition is disposed of, in the aforesaid terms.

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

(RAJIV SHAKDHER)
JUDGE

(TARA VITASTA GANJU)
JUDGE

APRIL 24, 2023 / *ha*