



\$~21 & 22

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

%

Date of Decision: 11.07.2023

+ **W.P.(C) 6061/2023**

GURUPREET SANGLA

..... Petitioner

Through: Mr V K Sabharwal with Mr Rajesh
Babu Gupta, Advs.

versus

PRINCIPAL COMMISSIONER OF INCOME
TAX, & ANR.

..... Respondents

Through: Mr Gaurav Gupta, Sr. Standing
Counsel with Mr Shivendra Singh and
Mr Puneett Singhal, Standing
Counsel.

+ **W.P.(C) 6062/2023**

SEEMA SANGLA

..... Petitioner

Through: Mr V K Sabharwal with Mr Rajesh
Babu Gupta, Advs.

versus

PRINCIPAL COMMISSIONER OF INCOME TAX,
DELHI 10 & ANR.

..... Respondents

Through: Mr Abhishek Maratha, Sr Standing
Counsel with Mr Akshat Singh,
Standing Counsel.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

%

11.07.2023

[Physical Hearing/Hybrid Hearing (as per request)]

CM Appl.34658/2023 in W.P.(C) 6061/2023

1. Allowed, subject to just exceptions.



W.P.(C) 6061/2023 & CM APPL. 23714/2023 [Application filed on behalf of the petitioner seeking interim relief]

CM Appl.34627/2023 [Application filed on behalf of the petitioner seeking to place additional documents on record]

W.P.(C) 6062/2023 & CM APPL. 23718/2023 [Application filed on behalf of the petitioner seeking interim relief]

2. The above-captioned petitions came up for hearing before the Court on 10.05.2023, when the following order was passed:

“2. These writ petitions concern Assessment Year (AY) 2016-17.

*3. We are informed that the above-captioned writ petitions are connected with WP(C) 6045/2023, titled **Harvinder Singh (HUF) v. Principal Commissioner of Income Tax & Anr.***

4. This writ petition, concededly, raised the same issue which is also raised in the above-captioned writ petitions.

5. Counsel for the petitioners informs us that, as in the aforementioned case, the petitioners/assesseees in the above-captioned writ petitions submitted replies dated 06.06.2022, whereby several defences were taken, both with regard to facts and the law.

6. Inter alia, the petitioners/assesseees had also indicated that if any further clarifications were required, they should be accorded personal hearing in the matter.

7. Apparently, no personal hearing was granted by the Assessing Officer (AO), who then proceeded to pass the impugned orders dated 29.07.2022 and 30.07.2022 under Section 148A(d) of the Act.

8. Accordingly, issue notice.

8.1 Mr Gaurav Gupta, senior standing counsel, accepts notice on behalf of the respondents/revenue in WP(C) 6061/2023, while Mr Abhishek Maratha, senior standing counsel, accepts notice on behalf of the respondents/revenue in WP(C) 6062/2023.



9. Messrs Gupta and Maratha say that they will return with instructions in the matters.

9.1 In case instructions are received to resist the above-captioned writ petitions, counter-affidavit(s) will be filed before the next date of hearing.

10. List the matters on 31.05.2023.

11. In the meanwhile, no precipitate action will be taken against the petitioners.

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

3. As would be evident from the extract of the aforesaid order, the grievance of the petitioners was that no personal hearing had been granted to them.

4. Furthermore, we had also directed that no precipitate action would be taken against the petitioner/assessee.

5. It appears, that despite the interim order having been passed by us on 10.05.2023, the Assessing Officer (AO) not only proceeded to pass the assessment order, but also issued notice of demand.

6. Mr Gaurav Gupta and Mr Abhishek Maratha, learned senior standing counsel, who appear on behalf of the respondents/revenue in the above-captioned writ petitions, submit that in view of the grievance raised by the petitioners, the best course of action would, perhaps, be to set aside the orders dated 29.07.2022 and 30.07.2022 passed under Section 148A(d) of the Act, and the consequent notices of even date issued under Section 148 of the Income Tax Act, 1961 [in short, “Act”].

7. It is ordered accordingly.

8. Resultantly, the assessment order, which was passed pursuant to the aforementioned orders and notices will collapse.



8.1 Liberty is, however, given to the AO to pass a fresh order under Section 148A(d) of the Act and take, if necessary, consequent steps, *albeit*, after granting personal hearing to the petitioners/assesseees.

8.2 The AO will issue notice the petitioners/assesseees, indicating the date and time of the hearing.

9. The writ petitions are disposed of in the aforesaid terms.

10. Interim order dated 10.05.2023 shall stand vacated.

11. Consequently, pending applications shall stand closed.

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

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

JULY 11, 2023/pmc