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

% ***Decision delivered on: 10.11.2023***

\+ **W.P.(C) 5383/2021**

JUBILANT FOODWORKS LIMITED ..... Petitioner

Through: Mr Aditya Vohra, Adv.

versus

NATIONAL FACELESS ASSESSMENT CENTRE, DELHI (EARLIER NATIONAL E-ASSESSMENT CENTRE DELHI) ..... Respondent

Through: Mr Gaurav Gupta, Sr. Standing Counsel with Mr Shivendra Singh, Mr Puneet Singhal, Jr. Standing Counsels, Ms Mahima Garg and Ms Deepika Goyal, Advs.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MR. JUSTICE GIRISH KATHPALIA
[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

1. This writ petition seeks to challenge the assessment order dated 20.04.2021 passed by the Assessing Officer (AO) under Section 143(3) read with Sections 144C(1) and 144B of the Income Tax Act, 1961 [in short, "Act"]. This order concerns Assessment Year (AY) 2017-18.

2. Besides this, a challenge is also laid to the demand notice issued under Section 156 of the Act as well as the notices issued for initiation of penalty proceedings under Section 274 read with Sections 270A, 271AA,

271G & 271BA of the Act.

2.1 We have noted that these notices bear the same date as the assessment order i.e., 20.04.2021.

3. Mr Aditya Vohra, counsel who appears on behalf of the appellant/assessee, contends that although, facially, the impugned assessment order seems to suggest that it is a draft assessment order, a closer look at the contents would show that it has attributes of a final assessment order.

4. Mr. Vohra emphasises that by taking recourse to this approach, the statutory remedy of filing objections with the Dispute Resolution Panel (DRP) was emasculated by the AO.

5. Mr Gaurav Gupta, learned senior standing counsel, who appears on behalf of respondent/revenue, says that he has received instructions to the effect that the impugned assessment order can be treated as a draft assessment order, with an opportunity being given to the writ petitioner to file objections within the statutory period i.e., 30 days.

6. Mr. Vohra says that he has also secured instructions to agree to the suggestion put forth by Mr Gupta.

7. Accordingly, the impugned assessment order shall be treated as a draft assessment order. Consequently, it will shed attributes of a final assessment order, such as the reference to the initiation of penalty proceedings. As a result, such parts of the order shall stand excised

8. The petitioner will have liberty to file its objections within 30 days of receipt of the order passed today.

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

10. Consequently, the interim order dated 19.05.2021, which was made absolute on 10.01.2023, shall stand vacated.

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

RAJIV SHAKDHER, J.

GIRISH KATHPALIA, J.

NOVEMBER 10, 2023/RY

Click here to check corrigendum, if any