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

% *Decision delivered on: 01.06.2023*

\+ **W.P.(C) 8011/2023 & CM Nos.30839-40/2023**

DLF COMMERCIAL PROJECTS CORPORATION..... Petitioner
Through: Ms Kavita Jha and Mr Aditeya Bali, Advs.

versus

NATIONAL FACELEASSASSESSMENT CENTRE DELHI & ORS. ..... Respondents
Through: Mr Sanjay Kumar, Sr Standing Counsel with Ms Easha and Ms Hemlata Rawat, 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):

CM No.30840/2023

1. Allowed, subject to just exceptions.

W.P.(C) 8011/2023 & CM No.30839/2023 ***[Application filed on behalf of the petitioner seeking interim relief]***

2. Issue notice.

2.1 Mr Sanjay Kumar, learned standing counsel, accepts notice on behalf of the respondents/revenue.

3. Given the directions that we propose to pass, Mr Kumar says that he does not wish to file a counter-affidavit and he will argue the matter based

on the record presently available with the court. Therefore, with the consent of learned counsels for the parties, the matter is taken up for hearing and final disposal at this stage itself.

4. This writ petition is directed against the assessment order dated 23.05.2023 passed by the respondent/revenue under Section 147 read with Section 144B of the Income Tax Act, 1961 [in short, "Act"]. In addition thereto, challenge is laid to a demand notice of even date, i.e., 23.05.2023 issued under Section 156 of the Act.

4.1 Besides this, challenge is also laid to the penalty notices issued under Section 271A(1)(c) of the Act.

5. To be noted, the aforementioned impugned assessment order and notices relate to Assessment Year (AY) 2013-14.

6. The record shows that a show cause notice dated 08.05.2023 was issued to the petitioner proposing variation in the income.

6.1 Concededly, the petitioner filed a response to the same which is dated 18.05.2023. *Inter alia,* in the response filed on behalf of the petitioner, an opportunity for personal hearing was sought.

7. Admittedly, the personal hearing was not granted by the Assessing Officer (AO). The AO, thus, proceeded to pass the impugned assessment order, without according a hearing to the authorized representative of the petitioner.

8. Ms Kavita Jha, who appears on behalf of the petitioner, says that there has been a breach of principles of natural justice.

9. Mr Sanjay Kumar, learned senior standing counsel, who appears on behalf of the respondents/revenue, cannot but accept that, in these

circumstances, the impugned assessment order is untenable in law.

10. Accordingly, the impugned assessment order and notices are set aside, with liberty to the AO to pass a fresh order after according personal hearing to the authorized representative of the petitioner.

10.1 For this purpose, the AO will issue a notice to the petitioner which would indicate the date and time of hearing.

10.2 Needless to add, the AO will pass a speaking order having regard to the reply filed by the petitioner.

10.3 At this stage, Ms Jha says that the petitioner should be given an opportunity to file written submissions and additional material in the matter.

10.4 The AO will accord such leeway to the petitioner. The assertions made in the written submissions as also the additional material, if any, will be dealt with, as well, by the AO.

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

12. Consequently, the pending application shall stand closed.

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

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

JUNE 1, 2023
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