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

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Date of decision: 13.07.2023

+ **W.P.(C) 9193/2023**

M/S. BAKSHI MARK (P) LTD

..... Petitioner

Through: Mr S. Krishnan, Advocate.

versus

ASSESSMENT UNIT & ANR.

..... Respondents

Through: Mr Zoheb Hossain, Sr. Standing
Counsel with Mr Sanjeev Menon, Jr.
Standing Counsel.

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 APPL. 34952/2023

1. Allowed, subject to just exceptions.

W.P.(C) 9193/2023 and CM APPL. 34951/2023 *[Application filed on
behalf of the petitioner seeking interim relief]*

2. Issue notice.

2.1 Mr Zoheb Hossain, senior standing counsel, accepts notice on behalf
of the respondents/revenue.

3. Mr Hossain says that, in view of the directions that we propose to
pass, a counter-affidavit need not be filed and that he will argue the matter



based on record presently available to the court.

4. This writ petition concerns Assessment Year (AY) 2016-17.

5. The principal grievance of the petitioner *qua* the impugned assessment order dated 26.05.2023 is that there has been a breach of principles of natural justice.

6. The record shows that a show-cause notice dated 12.05.2023 was issued to the petitioner, indicating the proposed variation in the petitioner's income. This notice required the petitioner to file a response by 18.05.2023(11:00 hours).

7. The petitioner lodged a request for accommodation on 16.05.2023. The reason accommodation was sought concerned "medical grounds". The petitioner sought leeway till 01.06.2023.

7.1 In support of the plea that the request for accommodation was lodged, our attention has been drawn to the screenshot of the ITBA portal. [See Annexure - P2 appended on page 31 of the case file].

8. The Assessing Officer (AO), somehow, missed the request made for accommodation, and thus, went on to note that no request for accommodation was lodged. This is contrary to the record, as is noticed hereinabove.

9. Given this position, the impugned assessment order is set aside. Liberty is, however, given to the AO to pass a fresh order. Consequently, the impugned demand and penalty notices will collapse.

9.1 The petitioner will file a response to the show-cause notice dated 12.05.2023 within the next one (1) week.

9.2. The AO will open the designated portal to enable the petitioner to



upload the response.

10. The AO will, thereafter, take the next steps in law.
11. The writ petition is disposed of in the aforesaid terms. Pending application shall also stand closed.
12. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

JULY 13, 2023 / tr