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

% *Decision delivered on: 18.07.2023*

+ **W.P.(C) 9444/2023**

SUKHDEEP SINGH CHADHA

..... Petitioner

Through: Mr Pabitra Roy Chaudhary, Adv.

versus

ASSESSMENT UNIT, INCOME TAX DEPARTMENT

..... Respondent

Through: Mr Vipul Agrawal, Sr Standing Counsel with Mr Gibran Naushad and Ms Sakshi Shairwal, Jr Standing Counsels.

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. 36052/2023

1. Allowed, subject to just exceptions.

W.P.(C) 9444/2023 & CM No.36051/2023 *[Application filed on behalf of the petitioner seeking interim relief]*

2. Issue notice.

2.1 Mr Vipul Agrawal, learned senior standing counsel, accepts notice on behalf of the respondents/revenue.

3. Given the directions that we propose to issue, Mr Agrawal says counter-affidavit need not be filed and he will argue the matter based on the record presently available with the Court.



3.1 Therefore, with the consent of learned 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) 2021-22.

5. For the moment, the principal grievance of the petitioner is that there has been a breach of principles of natural justice.

6. The record shows that a show-cause notice dated 07.06.2023 (SCN) was served upon the petitioner, proposing a variation in the taxable income. *Via* this notice, the petitioner was granted an opportunity to file a response up-until 09.06.2023 (11:00 hrs).

6.1 The petitioner claims that the reply was filed on 09.06.2023, which was not noticed by the Assessing Officer (AO) while passing the impugned assessment order dated 27.06.2023 under Section 143(3), read with Section 144B of the Income Tax Act, 1961 [in short, “the Act”].

6.2. The reply is marked as Annexure P-4 and is appended at page 40 of the case file. The said document bears an acknowledgement number.

7. Given this position, Mr Agrawal cannot but accept that there has been a breach of principles of natural justice.

8. Therefore, according to us, the best way forward would be to set aside the impugned assessment order dated 27.06.2023. It is ordered accordingly.

9. Liberty is, however, given to the AO to pass a fresh order, after taking into account the reply filed by the petitioner.

10. Before passing the order, the AO will also accord personal hearing to the petitioner and/or his authorized representative.

11. Needless to add, the AO will deal with all the contentions raised by the petitioner and thereafter pass a speaking order.



12. It is made clear that the order passed today will not impact the merits of the case.
13. The writ petition is disposed of, in the aforesaid terms. Resultantly, the interlocutory applications shall stand closed.
14. Parties will act based on the digitally signed copy of the order.

(RAJIV SHAKDHER)
JUDGE

(GIRISH KATHPALIA)
JUDGE

JULY 18, 2023/RV

Click here to check corrigendum, if any