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

% *Decision delivered on: 20.07.2023*

\+ **W.P.(C) 9565/2023 & CM Nos.36608-09/2023**

GI STAFFING SERVICES PRIVATE LIMITED ..... Petitioner

Through: Mr Salil Kapoor, Mr Sumit Lalchandani and Ms Vibhu Jain, Advs.

versus

ASSESSMENT UNIT, NATIONAL FACELESS ASSESSMNET CENTRE, DELHI NATIONAL E-ASSESSMNET, NEW DELHI - EARLIER KNOWN AS NATIONAL E-ASSESSMNET CENTRE, DELHI ..... Respondent

Through: Mr Akshat Singh, Standing Counsel for Mr Abhishek Maratha, Sr 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 No.36609/2023

1. Allowed, subject to just exceptions.

W.P.(C) 9565/2023 & CM No.36608/2023 ***[Application filed on behalf of the petitioner seeking interim relief]***

2. Issue notice.

2.1 Mr Akshat Singh, learned standing counsel, accepts notice on behalf of the respondent/revenue.

3. Given the directions that we propose to issue, Mr Singh 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.

3.1 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. *Via* this writ petition, challenge is laid to the penalty order dated 21.06.2023 passed under Section 270A of the Income Tax Act, 1961 [in short, "Act"]. Besides this, challenge is also laid to the demand notice of even date, i.e., 21.06.2023 issued under Section 156 of the Act.

4.1 The aforementioned penalty order and notice concern AY 2021-22.

5. It is not in dispute that the respondent/revenue passed the assessment order dated 26.12.2022 under Section 143(3) read with Section 144B of the Act. At that stage, separate demand and penalty notices dated 26.12.2022 were also issued.

6. The said assessment order, as also the demand and penalty notices were challenged by the petitioner *via* writ action, i.e., W.P.(C)No.777/2023.

7. A coordinate bench of this court, which included one of us [i.e., Rajiv Shakdher, J.] *via* judgment dated 23.01.2023 had set aside the assessment order dated 26.12.2022.

7.1 Resultantly, as was observed in the order, the impugned demand and penalty notices also collapsed.

7.2. Liberty was, however, given to the Assessing Officer (AO) to frame a fresh assessment order *qua* the petitioner *vis-à-vis* the AY in issue.

8. It is not in dispute that a fresh assessment order was passed on 31.03.2023, which was again challenged by the petitioner in a writ action, i.e., W.P.(C)No.6262/2023.

9. Mr Sumit Lalchandani, who appears on behalf of the petitioner, informs us (something which is not disputed by learned counsel for the respondent/revenue) that the said assessment order was set aside by the court *via* order dated 19.07.2023.

10. Mr Lalchandani says that the impugned penalty order, as also the penalty notice emanate from the assessment order dated 26.12.2022, which was set aside by the court on 23.01.2023.

11. Given this position, the impugned penalty order, as also demand notice are set aside.

12. This direction, however, will not come in the way of the AO to take the next steps in law, while framing a fresh assessment in terms of the judgment dated 19.07.2023 passed in W.P.(C)No.6262/2023.

13. The writ petition is disposed of, in the aforesaid terms. Consequently, the pending interlocutory application shall stand closed.

14. Parties will act based on the digitally signed copy of the judgment.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

JULY 20, 2023
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