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

% *Date of decision: 19.09.2023*

\+ **W.P.(C) 12328/2023**

GYAN CHAND GUPTA ..... Petitioner
Through: Mr Nitin Gulati, Advocate.

versus

NATIONAL FACELESS ASSESSMENT CENTRE DELHI & ORS.
..... Respondents
Through: Mr Prashant Meharchandani, Sr. Standing Counsel with Mr Akshat Singh and Ms Ritika Vohra, 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. 48538/2023

1. Allowed, subject to just exceptions.

W.P.(C) 12328/2023 and CM APPL. 48539/2023 *[Application filed on behalf of the petitioner seeking interim relief]*

2. This writ petition concerns Assessment Year (AY) 2017-18.

3. The petitioner seeks to challenge the assessment order dated 28.05.2023, passed under section 147 r/w Section 144 and Section 144B of the Income Tax Act,1961 [in short, "the Act"].

4. It is not in dispute that before passing the aforementioned assessment order, a show-cause notice (SCN), dated 28.05.2022, was issued to the

petitioner under Section 148A(b) of the Income Tax Act, 1961 [in short, "the Act"].

5. The record also shows that a SCN dated 15.05.2023 was also served on the petitioner/assessee.

6. Mr Nitin Gulati, who appears on behalf of the petitioner/assessee, points out that a reply dated 10.06.2022 was tendered *vis-à-vis* the first SCN dated 28.05.2022.

6.1 Likewise, we are told by Mr Gulati that replies were filed on 25.05.2023 and 26.05.2023 to the SCN dated 15.05.2023 *albeit,* after the date for filing the response provided in the said notice.

7. The record shows that, in the interregnum, the Assessing Officer (AO) had passed an order dated 29.07.2022 under Section 148A(d) of the Act.

8. In sum, the principles of natural justice appear to have been fulfilled at each stage and only thereafter, the impugned assessment order appears to have been passed.

9. The allegation against the petitioner, broadly, is that he is a beneficiary of accommodation entries which enabled him to register bogus long-term capital gain/loss.

10. Mr Gulati says that AO has not taken into account the responses filed by the petitioner/assessee.

11. Apart from anything else, we notice that the petitioner/assessee has taken his own sweet time in approaching the court for assailing the assessment order dated 28.05.2023.

12. In our view, the matter involves contentious facts which would require thorough enquiry, and therefore, a writ action may not be a suitable remedy.

13. Accordingly, the writ petition is dismissed, with liberty to the

petitioner to take recourse to an appropriate remedy as provided in law.

13.1 In case the petitioner files a statutory appeal with the Commissioner of Income Tax (Appeals) within the next three (3) weeks, the same will be dealt with on merits.

14. Pending application shall also stand closed.

15. Parties will act based on the digitally signed copies of the order.

(RAJIV SHAKDHER)
JUDGE

(GIRISH KATHPALIA)
JUDGE

SEPTEMBER 19, 2023 / tr