Neutral Citation No. 2024:PHHC:012074-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(201) **CWP-9931-2022**
Decided on : 30.01.2024

Vishal Beri ……Petitioner(s)

Versus

Union of India and others ……Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE LAPITA BANERJI

Present: Mr. Vikram Kumar, Advocate for
Mr. Mandeep K. Sajjan, Advocate for the petitioner (s).

Mr. Vaibhav Gupta, Jr. Standing Counsel for the respondents.

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G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition filed under Article 226/227 of the Constitution of India is to the notice dated 29.03.2022 (Annexure P-11) issued under Section 156 of the Income Tax Act, 1961 (for short 'the Act'), in pursuance of the assessment order (Annexure P-10) of even date.

2. A perusal of the assessment order (Annexure P-10) would go on to show that the same was passed under Section 147 read with Section 144B of the Act. The cash deposit of ₹89,50,000/- in the bank account with HDFC Bank is the ground as such for raising the demand and initiating the consequential proceedings. The demand notice dated 29.03.2022 (Annexure P-11) would go on to show that an appeal is maintainable under Part A of Chapter XX of the Act. The sole ground which has been raised as to whether the assessment order was passed by incompetent person, since the validity of digital signatures of the Assessing Officer had already expired on 09.02.2022.

3. We are of the considered opinion that once an appeal is provided under the Act, the writ jurisdiction cannot be invoked at the asking. Even otherwise in the reply filed justification given by the revenue as such is that the license period of the digital signature which was to be renewed on payment of fee by E-Mudra, was not renewed or brought to the notice of NaFAC for renewal due to systems failure of third party vendors and such technical

systemic issues were not envisaged and were beyond the control of the originator. It is pointed out that no prejudice was caused to the petitioner by expired validity shown in digital signature and the department vouched for its authenticity including the fact that the documents were signed and forwarded to authenticated e-filing account on real time basis. If any irregularity is perceived about non-verification of digital signature, the same will be fully covered under the Act.

4. Counsel for the revenue has also adverted to Section 282A regarding the deeming fiction that the every notice or other document shall be deemed to be authenticated if the name and office of a designated income tax authority is printed, stamped or otherwise written thereon which is available on the file.

5. Keeping in view the above, we are of the considered opinion that all these issues can be agitated before the Appellate Authority. Resultantly, the present writ petition is disposed of with the liberty to the petitioner to approach the Appellate Authority. We are sanguine that the Appellate Authority shall decide the appeal on merits rather than reject the same on the ground of limitation.

6. Disposed of.

(G.S. SANDHAWALIA)
JUDGE

(LAPITA BANERJI)
JUDGE

30.01.2024
Naveen

Whether speaking/reasoned :	Yes	
Whether Reportable :		No