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

\+ W.P.(C) 4736/2024

AMIT AGGARWAL ..... Petitioner

Through: Mr. Ruchesh Sinha, Advocate

Versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 59 (1) & ANR. ..... Respondents

Through: Mr. Shlok Chandra, Sr. SC.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **02.04.2024**

CM APPL 19388/2024 (Exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 4736/2024 and CM APPL 19387/2024 (Stay)

1. The writ petitioner seeks to invoke the extraordinary jurisdiction of this Court conferred by Article 226 of the Constitution of India and impugns the assessment order dated 5 March 2024.

2. The challenge is principally raised on the basis of the provisions made in Section 144B(6)(viii) of the Income Tax Act, 1961 ["**Act**"] to allege that despite a request for personal hearing having been submitted, the National Faceless Appeal Centre did not provide that opportunity to the writ petitioner.

3. Mr. Chandra, learned counsel appearing on behalf of the respondents has drawn our attention to the manner in which the

request itself had been framed by the writ petitioner as would be evident from its letter dated 27 February 2024. We deem it apposite to extract the following from that communication:-

> "The assessee shall be pleased to furnish any other details/documents required by your goodself in above assessment proceeding. <u>It is also requested your goodself to provide further opportunity of personal hearing through video conferencing to the assessee, in case any adverse inference is drawn in the above referred matter</u>".

4. As is evident from the above, the opportunity of personal hearing was sought in case an adverse inference was to be drawn by the respondents. In light of the qualified and hedged prayer that was made before the Assessing Officer, we find that the challenge as raised in the instant writ petition is clearly misconceived.

5. Consequently, the writ petition fails and shall stand dismissed alongwith pending application. This order however shall be without prejudice to the rights and contentions of the writ petitioner which shall be open to be addressed in case any statutory remedy is availed.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

APRIL 2, 2024
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