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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 5912/2024, CM Nos.24420/2024 & CM No.24421/2024**% *Date of Decision: 26.04.2024*

GLOBAL VECTRA HELICORP LIMITED Petitioner

Through: Mr. Salil Kapoor, Mr. S. Lalchandani,
Mr. Ananya Kapoor, Mr. Vibhu Jain &
Mr. Utkarsh K. Gupta, Advs.

Versus

ASSESSMENT UNIT, NATIONAL FACELESS ASSESSMENT
CENTRE, DELHI RespondentThrough: Mr. Siddhartha Sinha, Ms. Dacchita
Shahi & Ms. Anuja Pethia, Advs.**CORAM:****HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MS. JUSTICE TARA VITASTA GANJU****VIBHU BAKHRU, J (ORAL).**

1. Issue notice.
2. The learned counsel appearing for the respondent accepts notice.
3. With the consent of the parties, the present petition is taken up for hearing.
4. The petitioner has filed the present petition impugning the assessment order dated 27.03.2024 (hereafter the *impugned assessment order*) passed under Section 143(3) read with Section 144B of the Income Tax Act, 1961 (hereafter the *Act*). Additionally, the petitioner also impugns the demand raised under Section 156 of the Act pursuant to the impugned assessment order in respect of Assessment Year 2022-23 (hereafter the *impugned Assessment Year*).
5. Mr. Kapoor, learned counsel appearing for the petitioner has confined



the challenge in the present petition solely on the ground that the petitioner had not been provided sufficient opportunity to be heard.

6. The petitioner was issued a show cause notice dated 05.03.2024 (hereafter *the SCN*), *inter alia*, proposing certain additions to the income returned and calling upon the petitioner to respond to the same. The SCN spans over ten pages and raises various grounds.

7. Mr. Kapoor submits that despite the wide nature of allegations and issues raised in the SCN, the petitioner was called upon to submit a response by 17:24 hours on 09.03.2024. He states that the time provided was extremely short considering that there were two holidays after 05.03.2024. He also referred to the Standard Operating Procedure (hereafter *SOP*) dated 03.08.2022 framed by the National Faceless Assessment Centre, Delhi which requires that at least seven days time be provided to the assessee for responding to the Show Cause Notice.

8. The relevant extract of the said SOP is set out below:

- “N.1.3 To ensure adherence to the principles of natural justice and reasonable opportunity to the assessee, timelines to be given for obtaining response to the SCN shall be:
N.1.3.1 Response time of 7 days from the issue of SCN.”

9. He submits that notwithstanding the limited time available for filing the response, the petitioner did submit a response within the stipulated time. The petitioner protested against the limited time provided to respond to the SCN and submitted that if the Assessing Officer require any further information, the petitioner be provided additional time to furnish the same. In addition, the petitioner also requested for an opportunity to prepare the factual / legal submission and representing the matter through video conferencing / personal hearing. The relevant extract of the said response reads as under:



“The Assessee wishes to humbly and respectfully mention that show cause notice dated March 05, 2024 has been issued by your goodself, seeking information/documents by March 09, 2024. Your goodself would appreciate that only 3 working days-time have been provided to the Assessee to collate and furnish the details (comprises of voluminous workings/documents) on large amount of transactions. However, in order to duly cooperate with the tax authorities, the Assessee is furnishing, vide this submission maximum information at our end to demonstrate its claim. Should your goodself require any further formation, please do let us know, and the Assessee be provided additional time to furnish further required information’.

Should your goodself opine contrary to the above submission of the Assessee, **then an opportunity to prepare a factual/legal submission and represent the matter via video conferencing/personal hearing, be provided to the Assessee in its defense.”**

[Emphasis added]

10. Mr. Kapoor submits that an attempt to upload such a request online was made on 11.03.2024 but the online portal did not accept the same. He submits once a request for a personal hearing is made, it is obligatory on the part of Assessing Officer to provide the same.

11. Mr Sinha, learned counsel appearing for the respondent controverts the contentions advanced by Mr Kapoor on behalf of the petitioner. He submits that since the request for a personal hearing was required to be made online. The fact that such an attempt has been made on 11.03.2024 indicates that the petitioner was aware of the procedure and despite the same, no request was made by the petitioner through the online mode. He further submits that if the said request is not made in the manner as provided, the Assessing Officer cannot be faulted with for not acceding to such a request. However, he is unable to substantiate the said contention with reference to any provision of the Act and the Rules and Regulations made therein.



12. It is relevant to refer to Section 144B(6)(vii) and 144B(6)(viii) of the Act. The same are reproduced below:

“(vii) in a case where a variation is proposed in the income or loss determination proposal or the draft order, and an opportunity is provided to the assessee by serving a notice calling upon him to show cause as to why the assessment should not be completed as per such income or loss determination proposal, the assessee or his authorized representative, as the case may be, may request for personal hearing so as to make his oral submissions or present his case before the income-tax authority of the relevant unit;

(viii) where the request for personal hearing has been received, the income-tax authority of relevant unit shall allow such hearing, through National Faceless Assessment Centre, which shall be conducted exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony, to the extent technologically feasible, in accordance with the procedure laid down by the Board.”

13. A plain reading of Section 144B(6)(viii) of the Act indicates that where a request for personal hearing is received, the Income Tax Authority of the relevant unit shall allow a hearing through National Faceless Assessment Centre, which shall be effected exclusively through a video conferencing or video telephone. Since the request for video conferencing was made by the petitioner, it is mandatory for the respondent to accede to the same in terms of Section 144B(6)(viii) of the Act. It is well recognized that an opportunity to be heard is an important facet of natural justice. Thus, before passing an adverse order, a reasonable opportunity of hearing is required to be afforded to the petitioner.

14. In *C.B. Gautam v. Union of India & Ors.: (1993) 1 SCC 78*, the Constitution Bench of the Supreme Court also observed that even in case



where statute does not provide for an opportunity to be heard, the same is one of the principles of natural justice.

15. Undisputedly, in the present case, the Act expressly provided for the concerned Unit to afford the assessee an opportunity of hearing. In this view, we find merit in Mr. Kapoor's contention that the impugned assessment order falls foul of the principles of natural justice and the statutory requirement of affording the assessee an opportunity of being heard.

16. Accordingly, we set aside the impugned assessment order and remand the matter to the concerned Assessing Officer to consider afresh after affording a reasonable opportunity to be heard through video conferencing as is required in terms of Section 144B(6)(viii) of the Act.

17. The petitioner / assessee may also file written submissions within the period of one week from today.

18. The petition is disposed of in the aforesaid terms. All pending applications are also disposed of.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

APRIL 26, 2024

'gsr'

[Click here to check corrigendum, if any](#)