$~84

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

\+ W.P.(C) 8498/2019

BSC C & C JOINT VENTURE .....Petitioner

Through: Mr. Mayank Singh Nagi & Mr. Tarun Singh, Advs.

versus

ADDITIONAL COMMISSIONER OF INCOME TAX, RANGE- 62, NEW DELHI .....Respondent

Through: Mr. Gaurav Gupta, SSC along with Mr. Shivendra Singh, Jr. SC

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

O R D E R

% 28.08.2024

1. This writ petition has been preferred seeking the following reliefs:-

> "a) A Writ of Certiorari or Writ, Order or Direction in the nature of Certiorari, or any other appropriate Writ, Order or Direction under Article 226/227 of the Constitution of India quashing the Assessment Order dated 28.06.2019 passed by the AO for Assessment Year 2015-16.
>
> b) A Writ of Prohibition or Writ, order or direction in the nature of Prohibition, or any other appropriate Writ, order of direction under Article 226/227 of the Constitution of India directing status quo on the impugned Order dated 28.06.2019; and the Demand Notice and Notice of Penalty dated 28.06.2019; and for restraining the Respondent from giving effect to the same during the pendency of the present Writ.
>
> c) To pass ad-interim orders in terms of prayer (a) and (b);
>
> d) To pass such further or other relief as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. We find that the respondents in the counter affidavit which has been filed in these proceedings, have taken the position that the order

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 03/09/2024 at 11:56:38

of 28 June 2019 which is sought to be assailed is essentially a draft assessment order.

3. The petitioner had however contended that since the same was accompanied and followed by a notice of demand as well as orders proposing penalties, the same cannot possibly be viewed or accepted as being an assessment in draft.

4. However, and in light of the stated stand of the respondent that the order of 28 June 2019 is an order of assessment in draft, surely the notice of demand as well as penalty cannot sustain.

5. We accordingly allow the writ petition in part and quash the notices of demand as well as those proposing penalties, both dated 28 June 2019.

6. We leave it open to the respondents to take such further steps as may be otherwise permissible in law. All rights and contentions of respective parties on merits are kept open.

YASHWANT VARMA, J

RAVINDER DUDEJA, J

AUGUST 28, 2024/RW

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 03/09/2024 at 11:56:38