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

\+ W.P.(C) 9013/2024

INTERNAITONAL CENTRE FOR DIARRHOEAL DISEASE RESEARCH BANGLADESH THROUGH ITS AUTHORISED REPRESENTATIVE MR. MOHAMMAD SHAFIQUL KABIR .....Petitioner

Through: Mr. Deepak Chopra, Mr. Ravinder Singh, Mr. Anmol Anand, Ms. Raveesha Gupta and Ms. Priya Tandon, Advs.

versus

ASSISTANT COMMISSIONER OF INCOM TAX CIRCLE INTERNATIONAL TAXATION .....Respondent

Through: Mr. Aseem Chawla, SSC.

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

O R D E R

% 05.07.2024

CM APPL. 36945/2024 (Ex.)

Allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 9013/2024 & CM APPL. 36944/2024 (Stay)

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

> "a. Quash/ set aside draft assessment order dated 15.02.2024 (received on 03.03.2024) passed by the Respondent in the case of the Petitioner for AY 2018-19 under section 144C(l).
> b. Quash/ set aside final assessment order dated 24.04.2024 passed by the Respondent in the case of the Petitioner for AY 2018-19 under section 144C(3) of the Act along with computation of income.
> c. Quash/ set aside notice dated 24.04.2024 issued under Section 156 of the Act by the Respondent in the case of the Petitioner for AY 2018-19.
> d. Quash/ set notice dated 25.04.2024 issued under section 274 of the Act by the Respondent seeking to initiate penalty proceedings under section 270A of the Act in the case of the Petitioner for AY 2018-19.
> e. Quash/ set aside the notice dated 25.04.2024 issued under section 274 of the Act by the Respondent seeking to initiate penalty

proceedings under section 272A(l)(d) of the Act in the case of the Petitioner for AY 2018-19; and

f. Pass such other orders which this Hon'ble Court may deem fit and proper on the facts and in the circumstances of the present case."

2. As would be evident from the material placed on the record, the proceedings for assessment under Section 144C of the Income Tax Act, 1961 **["Act"]** commenced pursuant to a notice under Section 142(1) which is stated to have been issued on 21 July 2023. It is the case of the writ petitioner that the said notice was never served upon it.

3. Subsequently, another Show Cause Notice ["**SCN**"] came to be issued on 26 September 2023 and in response to which the petitioner submitted a reply on 12 November 2023. This was followed by an identical SCN dated 10 January 2024 which called upon the writ petitioner to show cause why proceedings under Section 144 be not initiated. The petitioner is stated to have submitted a reply on 3 March 2024 drawing the attention of the respondent to its detailed reply dated 12 November 2023 which had been already submitted.

4. It is the case of the petitioner further that on the very same date, i.e., 03 March 2024, a copy of a Draft Assessment Order came to be drawn and which was followed by a final assessment order which came to be passed on 24 April 2024.

5. Having heard learned counsels for parties, we find that although the petitioner had furnished a response in terms of the details set forth above, the final assessment order as well as the order in draft is premised on the petitioner having not submitted a response at all.

6. This is evident from a reading of the following recitals which appear in the final assessment order of 24 April 2024: -

> "4. However, the assessee has yet again failed to response to notice issued by this office. Despite providing ample opportunities, the assessee did not attend the proceedings nor filed any adjournment for the same. Under these circumstances, I am left with no alternative but to finalize the assessment proceedings on the basis of material available on record, u/s 144(1)(b) of the Act."

7. We consequently find that there has been an abject failure on the part of the respondents to either notice or deal with the contentions which were raised by the writ petitioner and stood embodied in the responses which were filed.

8. In view of the aforesaid and the admitted position which emerges from the record, we allow the instant writ petition and quash the impugned draft assessment order dated 15 February 2024 as well as the final assessment order dated 24 April 2024.

9. The matter shall now stand remanded to the Assessing Officer who shall recommence proceedings from the stage of passing of a draft assessment order. The respondents shall ensure that further proceedings are taken with due notice to the petitioner and in accordance with the principles of natural justice. All rights and contentions of respective parties on merits are kept open.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

JULY 5, 2024/neha