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

\+ W.P.(C) 4660/2025, CM APPL. 21560-61/2025

DALMIA BHARAT SUGAR AND INDUSTRIES LIMITED .....Petitioner

Through: Mr. Ajay Vohra, Sr. Advocate with Mr. Samarth Chaudhari and Mr. Shashvat Dhamija, Advocates.

versus

NATIONAL FACELESS ASSESSMENT CENTRE DELHI & ORS. .....Respondents

Through: Mr. Sanjay Kumar, SSC with Ms. Monica Benjamin, JSC; Ms. Easha Kadian, JSC and Ms. Nancy Jain, Advocate.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

<u>O R D E R</u>

% **16.04.2025**

1. The petitioner has filed the present petition impugning a draft assessment order dated 23.03.2025 passed by the Respondent no. 1 [National Faceless Assessment Centre Delhi- hereafter **the AU**] under Section 144C(1) of the Income Tax Act, 1961 [**the Act**] for Assessment Year [**AY**] 2022-23.

2. The learned senior counsel appearing for the petitioner has confined the present petition to assailing the impugned order on the ground that it was passed in violation of principle of natural justice.

3. The petitioner had filed its return of income for AY 2022-23 on 25.11.2022 declaring a total income of ₹281.58 Crores. The petitioner's return was selected for scrutiny and notice under Section 143(2) of the Act

was issued on 02.06.2023. The petitioner had responded to the said notice. During the course of the proceedings, the AU had made a reference to the Transfer Pricing Officer [**TPO**]. On 28.01.2025, the TPO passed an order under Section 92CA(3) of the Act proposing certain variations. Thereafter, on 06.03.2025, the AU issued a show cause notice to the petitioner proposing a disallowance of ₹443.38 Crores on broadly twelve issues.

4. In terms of the show cause notice, the petitioner was called upon to reply to the said notice on or before 11.03.2025. The petitioner responded to the said notice on 11.03.2025 on certain issues (ten in number), however, it further requested for time to address the remaining two issues by 18.03.2025. However, the said request was disregard and the AU fixed hearing by way of video conferencing on 17.03.2025 at 12:45 PM. The same was communicated to the petitioner on 15.03.2025. The petitioner, availing this opportunity, filed another reply to the show cause notice dated 06.03.2025 albeit in regard to one issue and repeated its request for time till 18.03.2025 to file its response to the last remaining issue.

5. The petitioner was afforded the hearing through video conferencing on 17.03.2025, however, the said hearing was confined to thirty minutes and according to the petitioner, the hearing was terminated abruptly.

6. It is the petitioner's case that it has not been afforded adequate opportunity to respond to the show cause notice dated 06.03.2025 and further has not been afforded a proper oral hearing. The petitioner's contention is premised on the basis that the petitioner was afforded only five days' time to respond to the show cause notice dated 06.03.2025 and out of the said five days, only three days were working days. The petitioner also rests his case on the ground that his oral hearing was confined to thirty

minutes without the petitioner being informed of the duration of the hearing.

7. We find merit in the aforesaid contentions. We are of the view that unless there are extraordinary circumstances where the time period for responding is required to be curtailed, an assessee ought to be provided at least seven days to respond to a show cause notice. We also note that several provisions of the act statutorily prescribe a minimum period of seven days for responding to show cause notices that may be issued under various provisions. Illustratively, Section 148A(b) of the Act also provides a minimum period of seven days for an assessee to respond to the notice issued under the said section. It is apparent that the period of seven days has been considered by the legislature as a reasonable period for responding to show cause notices.

8. In the present case, the petitioner had requested for a further period of seven days. Whilst, it is open for the AU to reject the same, we are of the view that it would have been apposite for the AU to provide at least seven days' time to the petitioner at the first instance to respond to the show cause notice.

9. We are also of the view that restricting the hearing afforded to the petitioner on 17.03.2025 also falls foul of the principle of *audi alteram partem*. Undisputedly, the petitioner is required to be afforded an opportunity to be heard. The said opportunity is required to be a meaningful one. Whilst, it may be open for the AU to fix a reasonable time for the petitioner to address oral submissions, it was necessary to apprise the petitioner of the duration of such a hearing, if it was restricted to a pre-determined duration.

10. In the present case, the petitioner was not apprised that the hearing

would be for thirty minutes and no more. Resultantly, the oral hearing was terminated while the petitioner was in the midst of making its submissions.

11. The AU is well within its right to fix the duration of the oral hearing keeping in view the issues involved. However, it is incumbent upon the AU to communicate the same to the petitioner, in advance, in order to enable the petitioner to complete the submissions within the reasonable time as may be stipulated. In the present case, the petitioner was not informed about the duration of the oral hearing.

12. In view of the above, we set aside the impugned order and remand the matter to the AU to consider afresh.

13. The petitioner may submit its response to the show cause notice dated 06.03.2025 within a period of seven days from date. Thereafter, the AU shall schedule the oral hearing and shall pass a fresh order after affording the petitioner an opportunity to be heard.

14. The petition is disposed of in the aforesaid terms. All the pending applications also stand disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 16, 2025/sms

Click here to check corrigendum, if any