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

\+ W.P.(C) 3359/2026 CM APPL. 16157/2026 CM APPL. 16158/2026

PEPSICO INDIA HOLDINGS PVT LTD .....Petitioner

Through: Mr. Deepak Chopra, Ms. Priya Tandon and Mr. Adwitya Grover, Advs.

versus

NATIONAL FACELESS ASSESSMENT CENTRE DELHI .....Respondent

Through: Mr. Puneet Rai, SSC with Mr. Ashvini Kr. & Mr. Rishabh Nangia, JSCs.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% **23.03.2026**

1. By way of the present writ petition, the petitioner has challenged the final assessment order dated 25.02.2026 for the Assessment Year 2023-24 on the ground of fundamental flaw from which it suffers *viz.* the draft assessment order was neither passed, nor supplied to the petitioner.

2. The petitioner is a company carrying on business in India, however, the Assessing Officer (Faceless Assessing Officer) made certain additions on the basis of transfer pricing, however, without passing any draft assessment order and providing a copy thereof to the petitioner as mandated under Section 144B read with Section 144C(1) of the Income Tax Act, 1961 *(hereinafter referred to as 'the Act of 1961')*.

3. Mr. Deepak Chopra, learned counsel for the petitioner argued that

since the impugned assessment order, wherein addition of transfer pricing has been made without following the mandate of law, as provided under Section 144B and Section 144C(1) of the Act of 1961, the same order is illegal and fundamentally without jurisdiction.

4. Mr. Puneet Rai, learned Senior Standing Counsel for the respondent-Department submitted that though a draft assessment order was passed but it was not proceeded with or dealt with in the manner provided under Section 144C(1) of the Act of 1961. He, however, tried to submit that the impugned final assessment order dated 25.02.2026 be treated to be a draft assessment order and the petitioner be directed to consider it as such and file its objection. He assured that such objections shall be considered in accordance with law.

5. Mr. Deepak Chopra, learned counsel for the petitioner invited Court's attention towards the judgment of Bombay High Court rendered in the case of ***SHL (India) Pvt. Ltd. v. Deputy Commissioner of Income Tax and Others*** reported in ***(2021) 438 ITR 317 (Bom)*** and submitted that if the assessment order is fundamentally in violation of the statutory provisions, the same is liable to be quashed.

6. Having heard leaned counsel for the parties and considering paragraph no. 28 of the judgment of Bombay High Court rendered in the case of ***SHL (India) Pvt. Ltd. (supra)***, we are of the view that if an assessment order is fundamentally in violation of statutory provisions, the same cannot be provided a fresh lease of life by this Court. If an order must go, it has to go and the consequence should follow.

7. We, therefore, quash and set aside the order dated 25.02.2026.

8. Needless to observe that we have not dilated upon or dealt with any

contentions regarding merits of the order dated 25.02.2026.

9. Needless to observe that if the Income Tax Department including the Faceless Assessing Officer and the Jurisdictional Assessing Officer are of the view that proceedings are required to be undertaken, and in case law so permits, they shall be free to do the same in accordance with law.

10. The petition stands allowed accordingly. All pending applications stand disposed of.

DINESH MEHTA, J.

VINOD KUMAR, J.

MARCH 23, 2026/*sr*