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

+ W.P.(C) 6220/2021 & CM 19712-19713/2021

INTERNATIONAL MANAGEMENT ..... Petitioner  
Through: Dr.Rakesh Gupta with Mr.Somil  
Agarwal, Ms.Monika Ghai and  
Ms.Tani Malik, Advocate.

versus

NATIONAL FACELESS ASSESSMENT CENTRE  
& ANR. .... Respondents  
Through: Ms.Vibhooti Malhotra, Advocate.

% Date of Decision: 08<sup>th</sup> July, 2021.

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**J U D G M E N T**

**MANMOHAN, J: (Oral)**

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the assessment order dated 2<sup>nd</sup> April, 2021 passed by National Faceless Assessment Center, Delhi under Section 143(3) read with Sections 143(3A) and 143(3B) of the Income Tax Act, 1961 [for short 'the Act'] for assessment year 2017-18. Petitioner further prays for a stay on the demand arising out of the aforesaid order.
3. Learned counsel for the petitioner states that the action of respondent

in passing the impugned assessment order and making additions to the income is untenable in law inasmuch as the basis of addition was not furnished to the petitioner. He emphasizes that no draft assessment order was issued which is mandatorily required under the Faceless Scheme.

4. He points out that in a similar case being *Smart Vishwas Society vs. National Faceless Assessment Centre Delhi (Earlier National E-Assessment Centre Delhi) & Ors*, WP(C) 5348/2021, the learned predecessor Division Bench of this Court had quashed the assessment order and consequential notices.

5. Issue Notice. Ms. Vibhooti Malhotra, learned senior standing counsel for respondents/revenue accepts notice. Learned senior standing counsel appearing on behalf of respondents/revenue states that the record presently placed before the Court would show that though no show cause notice-cum-draft assessment order was issued, yet several opportunities had been granted by the respondents/revenue to the petitioner, before the said date, to explain its case.

6. This argument of the respondents/revenue is contrary to the statutory scheme, as provided in Section 144B of the Act. The relevant portions of Section 144B xvi (a) and (b) as well as Section 144B(9) of the Act are reproduced hereinbelow:-

*“144B. (1) Notwithstanding anything to the contrary contained in any other provisions of this Act, the assessment under sub-section (3) of section 143 or under section 144, in the cases referred to in sub-section (2), shall be made in a faceless manner as per the following procedure, namely:—.....*

*(xvi) the National Faceless Assessment Centre shall examine the draft assessment order in accordance with the risk*

*management strategy specified by the Board, including by way of an automated examination tool, whereupon it may decide to—*

- (a) finalise the assessment, in case no variation prejudicial to the interest of assessee is proposed, as per the draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment; or*
- (b) provide an opportunity to the assessee, in case any variation prejudicial to the interest of assessee is proposed, by serving a notice calling upon him to show cause as to why the proposed variation should not be made; or.....*

xxx            xxx            xxx

- (9) Notwithstanding anything contained in any other provision of this Act, assessment made under sub-section (3) of section 143 or under section 144 in the cases referred to in sub-section (2) [other than the cases transferred under sub-section (8)], on or after the 1st day of April, 2021, shall be non est if such assessment is not made in accordance with the procedure laid down under this section.*”

(emphasis supplied)

7. In our opinion, learned counsel for the petitioner is correct in submitting that Section 144B of the Act has been violated and the assessment proceeding has been completed in the present case in violation of the principles of natural justice.

8. Consequently, the impugned assessment order dated 2<sup>nd</sup> April, 2021 issued under Section 143(3) read with Sections 143(3A) and 143(3B) of the Act along with notice of demand arising therefrom are set aside. However, the respondents/revenue is given liberty to pass a fresh assessment order in accordance with law. The petitioner is also given liberty to challenge any

action of the respondents/revenue in accordance with law, in the event it is aggrieved by the same.

9. Accordingly, the present writ petition along with pending applications stands disposed of.

10. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

**MANMOHAN, J**

**NAVIN CHAWLA, J**

**JULY 8, 2021**

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