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

+ W.P.(C) 6427/2022

CCTEB INDIA PRIVATE LIMITED

..... Petitioner

Through: Mr. Sumit Bansal, Mr. Udaibir Singh
Kochar, Ms. Tanya Aggarwal and
Mr. Aditya Bakshi, Advs

versus

DEPUTY COMMISSIONER OF INCOME TAX CENTRAL CIRCLE-17,
DELHI AND ANR. Respondents

Through: Mr. Zoheb Hossain, Sr. Standing
counsel with Mr. Vipul Agrawal and
Mr. Parth Semwal, Advs.

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Date of Decision: 26th April, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

MANMOHAN, J (Oral):

CM APPL.19469/2022 (exemption)

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) 6427/2022 & CM APPL. 19468/2022(stay)

1. Present writ petition has been filed challenging the Assessment Order dated 31st March, 2022, passed under Section 143 (3) read with Section 153A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for Assessment Year 2020-21.

2. Learned counsel for the petitioner states that the respondent No.1 while passing the said impugned order, made additions totalling to Rs.100,89,12,380/- primarily on the ground that the petitioner had failed to file reply to the show cause notice issued by the respondent No.1 on 22nd March, 2022 around midnight. He states that the said show cause notice was served upon the petitioner via e-mail asking the petitioner to respond to said notice by 3:45 pm on the very next day, i.e. 23rd March, 2022.

3. Learned counsel for the petitioner states that by way of the said show cause notice running into 92 pages, the petitioner was directed to provide various documents for the first time during the assessment proceedings. He states that the said documents were never asked for by the respondent No.1 at any earlier point of time during the assessment proceedings. He emphasises that the respondent No.1 had prior in time issued four notices under Section 142(1) which were duly complied with by the petitioner and in none of the said notices, the details as mentioned in the show cause notice dated 22nd March 2022, were called for by the respondent No.1. He states that vide the said show cause notice, the petitioner was made aware for the first time of the result of the post search/inquiries qua the petitioner and that deposition had been made by some persons against the petitioner.

4. Per contra, Mr. Zoheb Hossain, learned counsel for the respondent/Revenue states that the principle of natural justice has been duly complied with in the present case inasmuch as adequate opportunities were given to the petitioners to respond to the four notices issued by the Department. He contends that the last notice was issued at the fag end of March as the petitioner had not furnished adequate response to the four show cause notices dated 10th December, 2021, 22nd December, 2021, 7th

February, 2022 and 17th February, 2022 under Sections 142(1) of the Income Tax Act, 1961.

5. Mr. Zoheb Hossain, learned counsel for Revenue also states that despite receipt of the notice dated 22nd March 2022, the petitioner neither filed any reply nor sought any additional time.

6. In rejoinder, learned counsel for the petitioner states that after receipt of the notice dated 22nd March, 2022, the Director as well as the authorised representative of the petitioner Company had visited the office of the respondent No.1 on 23rd March, 2022 and sought additional time to file response to the said show cause notice. He, however, states that the authorised representative of the petitioner's Company was not entertained by the respondent No.1.

7. Mr. Zoheb Hossain, learned counsel for Revenue disputes the aforesaid fact.

8. Having heard learned counsel for the parties, this Court is of the view that time of one and a half days given by the respondent-Revenue to the petitioner to respond to the notice dated 22nd March, 2022 in the peculiar facts of the present case was not sufficient. It is pertinent to mention that the show cause notice dated 22nd March 2022 runs into 92 pages and is accompanied by the deposition of certain individuals which were not provided to the petitioner prior thereto.

9. Consequently, in the peculiar facts of the present case, the impugned assessment order dated 31st March 2022 is set aside. Petitioner is directed to file its response to the show cause notice dated 22nd March 2022 within three weeks. Respondent is directed to pass an assessment order within four weeks thereafter by way of a reasoned order in accordance with law.

10. With the aforesaid directions, the present writ petition along with pending application stands disposed of. This Court clarifies that it has not commented on the merits of the controversy. The rights and contentions of all the parties are left open.

MANMOHAN, J

DINESH KUMAR SHARMA, J

APRIL 26, 2022
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