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

+ W.P.(C) 5351/2021

HERO FINCORP LIMITED

..... Petitioner

Through : Mr. Ajay Vohra, Senior Advocate
along with Mr.Rohit Jain and
Mr.Himanshu Aggarwal, Advocates.

versus

NATIONAL FACELESS ASSESSMENT
CENTRE DELHI (EARLIER NATIONAL
EASSESSMENT CENTRE DELHI) & ANR. Respondents

Through : Mr. A. Renganath, Advocate for
Mr.Ajit Sharma, Senior Standing
Counsel for Revenue.

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Date of Decision: 6th October, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. The present writ petition has been filed challenging the assessment order dated 30th April, 2021 and the consequential notices issued under Section 156 and Section 274 read with Section 270A of the Income Tax Act, 1961 ('the Act').
2. It was stated in the petition that assessment order was passed under Section 143(3) read with Section 144B of the Act, raising a substantial tax and interest demand of Rs.86,62,88,770/-, without serving the petitioner



with the mandatory draft assessment order along with show cause notice, as contemplated in Section 144B of the Act, although, the petitioner's declared income was varied to its prejudice.

3. Notice was issued in the present writ petition on 18th May, 2021 and the counsel for the respondent had sought time to take instructions in the present matter. In the meantime, the operation of the impugned orders was stayed.

4. Today, the learned counsel for the respondent states that he has received instructions in the matter to the effect that the impugned orders may be set aside and the matter may be remanded to the Assessing Officer ('AO') for determining the matter afresh.

5. For framing assessment under Section 143(3) of the Act, in terms of Section 144B(1)(xvi)(b) of the Act (as it stood prior to the amendment brought into effect by the Finance Act, 2022), the National Faceless Assessment Centre ('NaFAC') before making a variation to the income which is prejudicial to the assessee, was mandated to provide an opportunity to the assessee to show cause as to why the proposed variation should not be made and such a notice should be accompanied with the draft assessment order, proposed to be passed.

6. In the present case, admittedly, no show cause notice, as contemplated under Section 144B(1)(xvi)(b) of the Act was served on the petitioner, thereby depriving the petitioner of its statutory right to file a response as well as place the documents on record in support of its response and to be heard before passing of the final assessment order.

7. We therefore, set aside the assessment order dated 30th April, 2021 and the consequential notices issued under Section 156 and Section 274 read



with Section 270A of the Act and remand the matter to the respondent No. 1 to complete the assessment proceedings within a period of twelve weeks from today, in accordance with law.

8. We make it clear that we have not expressed any opinion on the merits of the controversy in the writ petition.

9. With the above directions, the writ petition stands disposed of.

MANMEET PRITAM SINGH ARORA, J

MANMOHAN, J

OCTOBER 6, 2022

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