

\$~A-3

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

+ **W.P.(C) 12279/2022 & CM APPL.36869/2022**

M/S AGL LOGISTICS PRIVATE LIMITED Petitioner

Through: Mr.Sumit Kalra, Advocate.

versus

COMMISSIONER OF INCOME TAX (NFAC), DELHI AND ANR.

..... Respondents

Through: Mr.Kunal Sharma, Sr.Standing Counsel with Ms.Zehra Khan, Jr.Standing Counsel, Mr.Shubhendu Bhattacharya, Advocate and Mr.Virender Kumar Rathee, ITO, Ward 1(1), New Delhi (Assessing Officer).

%

Date of Decision: 14th October, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, J:

CM APPL.36870/2022 (exemption)

Allowed, subject to all just exceptions

Accordingly, the application stands disposed of.

W.P.(C) 12279/2022 & CM APPL.36869/2022

1. Present writ petition has been filed seeking directions to the Respondents to decide the stay application dated 10th September, 2021 filed by the Petitioner in compliance with the Order dated 02nd September, 2021

passed in WP(C) No.8875/2021 and to decide the Appeal filed on 26th August, 2021 by the Petitioner against the assessment order dated 25th June, 2021 and to grant a fair, reasonable and proper opportunity of hearing to the Petitioner to reply/respond to the said Show Cause Notices dated 15th April, 2021 and 26th May, 2021 before passing any order in relation thereto.

2. In the present writ petition, it has been averred that in violation of the order dated 02nd September, 2021 passed in WP(C) No.8875/2021, the Respondent has failed to dispose of the stay application dated 10th September, 2021 filed by the Petitioner within four weeks from its filing, as directed in the said order.

3. When the present writ petition was listed for the first time on 25th August, 2022, learned counsel for the petitioner had prayed for some time to obtain instructions.

4. On the next date of hearing i.e. 14th September, 2022, learned counsel for the respondents-revenue had sought an adjournment. It was only on 21st September, 2022 that a one-line cryptic order disposing of the stay application was furnished to this Court.

5. This Court on 21st September, 2022 passed the following order:-

“Today, learned counsel for the petitioner has handed-over an e-mail sent to the petitioner by the Assessing Officer. The said e-mail reads as under :

“Dear Assessee,

Your application for stay of demand for A.Y 2018-19 has been considered.

You are requested to deposit 20% of the demand and balance will be stayed till the disposal of appeal filed by you.

(Virender Kumar Rathee)
Income Tax Officer,

Ward-1(1), New Delhi.”

Learned counsel for the petitioner states that the order disposing of the petitioner’s application for stay of demand is cryptic and non-reasoned.

In the present case, this Court had directed disposal of the said stay application as far back as 2nd September, 2021. As the said direction was not complied with, the petitioner has filed the present writ petition. Now, the Assessing Officer has passed a perfunctory order without dealing with any contentions and submissions of the petitioner. Prima facie this Court is in agreement with the submission of learned counsel for the petitioner that the order disposing of the stay application is cryptic and non-reasoned.

Consequently, the Assessing Officer is directed to be personally present in Court on 14th October, 2022.”

6. In pursuance to the said order, the Assessing Officer is personally present in Court. He states that he could not comply with the order dated 2nd September, 2021 disposing of the earlier Writ Petition being WP(C) 8875/2021, as the said file was not handed over by his learned predecessor to him.

7. This Court was inclined to order an inquiry by the Principal Commissioner of Income Tax as to why the said file was allegedly not handed over by the previous Assessing Officer to the present Assessing Officer.

8. At this stage, the Assessing Officer expresses unconditional apology as well as regret for not complying with this Court’s order dated 2nd September, 2021. In view of the aforesaid apology, this Court refrains from taking any action against the Assessing Officer. However, he is directed to be more careful in the future.

9. Learned counsel for the Petitioner states that the Petitioner would be satisfied if this Court were to direct respondent No.1 to decide Petitioner's appeal within a strict time frame.

10. Accordingly, the present writ petition along with applications stands disposed of with a direction to the respondent No.1 to decide the petitioner's appeal as expeditiously as possible preferably within six months. This Court clarifies that the rights and contentions of all the parties are left open.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

OCTOBER 14, 2022
TS