(2021) 08 DEL CK 0120

In the Delhi High Court

Case No : Civil Writ Petition No. 8280, 8282 Of 2021, Civil Miscellaneous Application No. 25689-25690, 25693-25694 Of 2021

Ramprastha Buildwell Private Limited APPELLANT

Vs

National E-Assessment Centre, Delhi & Anr. RESPONDENT

Date of Decision : 12-08-2021

Acts Referred:
Income Tax Act, 1961 — Section 143(3), 144B

Citation : (2021) 08 DEL CK 0120

Hon'ble Judges : Manmohan, J;Navin Chawla, J

Bench : Division Bench

Advocate : Amol Sinha, Ashvini Kumar, Nitin Gulati, Sunil Agarwal, Tushar Gupta

Final Decision : Disposed Of

Judgement

Manmohan, J

1. The petitions have been heard by way of video conferencing.

2. Present writ petitions have been filed challenging the Assessment Orders dated 26th April 2021 and 27th April 2021 in W.P. (C) 8282/2021 and

W.P. (C) 8280/2021 respectively, passed under Section 143(3) read with Section 144B of the Income Tax Act, 1961 for AY 2018-19. Petitioners also

seek direction to Respondent No. 1 to grant an opportunity to the petitioners for filing objections against the show cause notices dated 21st April, 2021

and 22nd April, 2021 in W.P. (C) 8282/2021 and W.P.(C) 8280/2021 respectively.

3. Learned counsel for the Petitioners contends that the impugned Assessment orders have been passed without granting an opportunity of filing

objections against the notices cum draft assessment orders as the state of Delhi was under lockdown due to the second wave of Covid-19 Pandemic between date of notices and the date by which replies had to be filed i.e. 23rd April, 2021 and 26th April, 2021 in WP(C) 8282/2021 and WP(C)

8280/2021 respectively.

4. He emphasises that the office premises of the Petitioners were closed between the date of issuance of notices and passing of the impugned orders

due to curfew imposed between 19th April, 2021 and 3rd May, 2021 in pursuance to the Delhi Disaster Management Authorities orders and the

Petitioners were unable to access their official emails and communicate the notices to their authorised representatives for filing objections/replies

against the show cause notices-cum-draft assessment orders. Hence, according to him, there has been a gross violation of the principles of natural

justice enshrined in Section 144B of the Act.

5. Issue Notice.

6. Mr.Sunil Agarwal, Advocate and Mr.Ruchir Bhatia Advocate accept notice on behalf of the respondents in WP(C) 8280/2021 and WP(C)

8282/2021 respectively. They state that it has been the consistent stand of NaFAC that in such cases where there has been a lapse of procedure on

the part of Faceless Assessing officer due to technical reasons or otherwise, the Court may be requested to set aside the assessment orders and

remand the matters back to the Assessing Officer for passing a fresh order after following the due procedure.

7. Having regard to the fact that the offices of the petitioners were closed due to lockdown and the petitionersâ?? Account Officer was unavailable,

this Court is of the view that the petitioners did not get an effective and meaningful opportunity to respond to the Draft Assessment Order and show-

cause notices dated 21st April 2021 and 22nd April 2021.

8. Keeping in view the aforesaid as well as in accordance with the statement made by the learned counsel for the respondents, the Impugned

Assessment Orders dated 26th April 2021 and 27th April 2021 passed in W.P. (C) 8282/2021 and W.P. (C) 8280/2021 respectively, under Section

143(3) read with Section 144B of the Income Tax Act, 1961 for AY 2018-19 are set aside and the matters are remanded back to the Respondent-

Assessing Officers for taking appropriate steps in accordance with law.

9. Writ petition and applications stand disposed of in view of the above.

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

