

(2021) 11 DEL CK 0192

In the Delhi High Court

Case No : Civil Writ Petition No. 11011 Of 2021, Civil Miscellaneous Application No. 33946 Of 2021

Renew Wind Energy (Shivpur) Private Limited

APPELLANT

Vs

National Faceless Assessment Centre Delhi

RESPONDENT

Date of Decision : 29-11-2021

Acts Referred:

Income Tax Act, 1961 — Section 143(3), 144B, 144C(1)

Citation : (2021) 11 DEL CK 0192

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

Bench : Division Bench

Advocate : Ajay Vohra, Aditya Vohra, Ruchir Bhatia

Final Decision : Disposed Of

Judgement

Manmohan, J

1. Today Mr.Ruchir Bhatia, learned counsel for the Revenue, once again requests for an opportunity to file a counter affidavit. On the last date of hearing i.e., 28th September, 2021, Mr.Ruchir Bhatia, learned counsel for the Revenue, had accepted notice on behalf of the respondent and had been directed to file a counter affidavit within a period of four weeks. However, no counter affidavit has been filed till date.

2. Learned senior counsel for the petitioner states that the petitioner is only praying for a remand.

3. Keeping in view the aforesaid limited prayer, further time to file a counter affidavit is declined and the matter is taken up for hearing.

2. It is pertinent to mention that present writ petition has been filed challenging the impugned draft assessment order dated 02nd September, 2021 passed by the respondent under Section 143(3) read with Section 144B and Section 144C(1) of the Income Tax Act, 1961, for the assessment year 2018-19.

3. Learned counsel for the petitioner states that the respondent issued notice on Friday, 27th August 2021 at 8:20 pm, requiring the petitioner to file information as per the attached annexure, within two days of receipt of the notice. He points out that the petitioner came to know about this notice on 30th August 2021. He emphasizes that no annexure referred to in the notice was uploaded on the income-tax portal or enclosed to the notice. He states that the petitioner, accordingly, filed e-response against the notice, requesting for copy of the annexure as well as time till 06th September 2021 to file response against the notice dated 27th August 2021.

4. He emphasises that ignoring the response and request for additional time, the respondent passed draft assessment order for the assessment year 2018-19, wherein income of the petitioner was assessed at Rs. 149.05 crores approx. as against NIL income returned by the petitioner.

5. Keeping in view the aforesaid, this Court is of the view that the principles of natural justice have been violated in the present case inasmuch as the petitioner was not given sufficient time to file its response to the notice dated 27th August, 2021 and the annexure to the notice was not supplied.

6. Consequently, the respondent is directed to supply a copy of the annexure to the notice dated 27th August, 2021 within a week and the petitioner is given liberty to respond to the said notice as well as the annexure within two weeks thereafter. The respondent shall decide the notice dated 27th August, 2021 by way of a reasoned order in accordance with law within twelve weeks. Needless to say, if the petitioner is aggrieved by the said decision, it shall be open to the petitioner to file appropriate proceedings in accordance with law.

7. With the aforesaid directions, the present writ petition and the pending applications are disposed of.