(2023) 06 DEL CK 0081

In the Delhi High Court

Case No : Civil Writ Petition No. 7394 Of 2023

Sanjeev Sikka APPELLANT

Vs

National Faceless Assessment Centre, Delhi & Ors. RESPONDENT

Date of Decision : 02-06-2023

Acts Referred:

Constitution Of India, 1950 — Article 226
Income Tax Act, 1961 — Section 144B, 147, 148, 148A(d)

Citation : (2023) 06 DEL CK 0081

Hon'ble Judges : Rajiv Shakdher, J;Girish Kathpalia, J

Bench : Division Bench

Advocate : Satyen Sethi, Artatrana Panda, Ruchir Bhatia

Final Decision : Disposed Of

Judgement

Girish Kathpalia, J

W.P.(C) 7394/2023 & CM APPL. 28766/2023 (Stay)

1. Heard. Notice. Shri Ruchir Bhatia, learned senior standing counsel accepts notice on behalf of respondents/revenue and submits that in view of order that we intend to pass, there is no need to file counter-affidavit. With consent of counsel for both sides, the matter is taken up for final hearing and disposal at this stage itself.

2. The petitioner, invoking Article 226 of the Constitution of India has assailed order dated 17.05.2023 passed under Section 147 [read with 144B] of the Income Tax Act, 1961, notice dated 25.07.2022 issued under Section 148 of the Act and order dated 25.07.2022 passed under Section 148A(d) of the Act, all pertaining to the Assessment Year 2014-15. The petitioner has laid challenge to the above mentioned impugned notice and orders on several grounds, out of which only one ground is taken up, as the same is the most crucial one, based on which the present writ petition can be disposed of.

3. It is contended on behalf of petitioner that since the impugned order was passed in gross violation of principles of natural justice, the impugned notice and orders are not sustainable in the eyes of law. It is elaborated on behalf of the petitioner that in terms of notice dated 28.04.2023, the petitioner was to submit response on 05.05.2023 and petitioner sought adjournment for 15 days on 05.05.2023 itself on "adjournment request window on e-portal"; that ignoring the adjournment request dated 05.05.2023, respondent no. 1 completed the assessment, observing that the petitioner was provided personal hearing through videoconferencing vide show cause notice dated 28.04.2023 but petitioner did not file any response or documentary evidence.

4. Learned counsel for respondents/revenue, in all fairness concedes that the above mentioned violation of right to fair hearing has vitiated the impugned orders.

5. Under these circumstances, the impugned notice and orders are set aside and matter is remanded to the Assessing Officer to pass fresh orders after affording a fair opportunity to the petitioner or his authorized representative to be heard.

6. Accordingly, the writ petition and the application stand disposed of.

