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

+ **W.P.(C) 5087/2021**

M/S SAS FININVEST LLP

..... Petitioner

Through: Mr. Kapil Goel, Advocate

versus

NATIONAL E-ASSESSMENT CENTRE INCOME TAX
DEPARTMENT NEW DELHI

..... Respondent

Through: Mr. Ruchir Bhatia, Advocate for Mr.
Ajit Sharma, Sr. Standing Counsel.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

ORDER

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04.05.2021

[Court hearing convened *via* video-conferencing on account of COVID-19]

CM APPL. Nos. 15586-87/2021

1. Allowed, subject to the applicant/petitioner curing the deficiencies referred to in the captioned applications within 15 days from today.

W.P.(C) 5087/2021 and CM APPL. No.15585/2021 [Application filed on behalf of the petitioner seeking stay on the operation of the impugned assessment order dated 31.03.2021]

2 According to Mr. Kapil Goel, who appears on behalf of the petitioner-assessee, the issue which arises for consideration in the present petition is similar to the issue raised in W.P.(C) 4774/2021 titled ***KL Trading Corporation vs. National E-Assessment Centre, Delhi & Anr.*** In this behalf, our attention has been drawn to the order dated 16.04.2021, passed in the said writ petition.

3. Mr. Goel says that the assessment in the instant case has been carried out under the Faceless Assessment Scheme, 2019 read with Faceless Assessment (1st Amendment) Scheme, 2021, which willy-nilly required the revenue to issue a show-cause notice (accompanied by the relevant material) before proceeding to pass the impugned assessment order.

3.1. To be noted, the assessment order impugned by the petitioner-assessee is dated 30.03.2021.

3.2. In support of his plea, that no show-cause notice was issued to the petitioner-assessee, Mr. Goel relies upon the screenshot of the petitioner-assessee's assessment proceedings on the e-portal, which is extracted in paragraph 4.1 on page 18 of the paper book.

3.3. Furthermore, to buttress this very plea, reliance is also placed on the Central Board of Direct Taxes instruction no. 20/2015, dated 29.12.2015. In particular, Mr. Goel relies on paragraph 4 of the said circular. For the sake of convenience, the same is extracted hereafter:

“4. The Board further desires that in all cases under scrutiny, where the Assessing Officer proposes to make additions or disallowances, the assessee would be given a fair opportunity to explain his position on the proposed additions/disallowances in accordance with the principle of natural justice. In this regard, the Assessing Officer shall issue an appropriate show-cause notice duly indicating the reasons for the proposed additions/disallowances along with necessary evidences/reasons forming the basis of the same. Before passing the final order against the proposed additions/disallowances, due consideration shall be given to the submissions made by the assessee in response to the show-cause notice.”

[Emphasis is ours]

4. Accordingly, issue notice.
5. Mr. Ruchir Bhatia, who appears on behalf of Mr. Ajit Sharma, learned senior standing counsel for the revenue, accepts service on behalf of the respondent. We are told that, due to personal difficulty, Mr. Sharma is not available today.
 - 5.1. Counter-affidavit will be filed within four weeks. Rejoinder thereto, if any, will be filed before the next date of hearing.
6. List the matter on 10.08.2021.
7. In the meanwhile, there shall be a stay on the operation of the impugned assessment order dated 31.03.2021

RAJIV SHAKDHER, J

TALWANT SINGH, J

MAY 4, 2021

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[Click here to check corrigendum, if any](#)