

01.10.2021
p.b.
Sl. No.17.

W.P.A. 13778 of 2021

(Through Video Conference)

Lexmark International (India) Private Limited

Vs.

Union of India & Ors.

Mr. Kamal Sawhney,
Mr. Prashant Meherchandani,
Mr. Divyansh Singh,
Mr. Tirtha Mukherjee,
Mr. Suryaneel Das.
.....for the petitioner.

In this matter, petitioner has challenged the impugned assessment order dated 30th July, 2021 under Section 143(3) read with Section 144C(3), 144B of the Income Tax Act relating to Assessment Year 2017-2018 on the ground that the same is arbitrary, illegal and wrongful exercise of jurisdiction.

Facts in brief in this case according to the petitioner is that the petitioner received a Draft Assessment Order under Section 144C of the Act against which he filed objection on 23rd June, 2021 before the Dispute Resolution Panel (DRP) against the additions proposed in the said Draft Assessment which was to be filed within 30 days from date, but it is the case of the petitioner that in view of the circular of the Central Board of Direct Tax (CBDT) dated 25th June, 2021 the last date of filing such

objections under that section was extended till 31st August, 2021 and it is the case of the petitioner that without allowing the aforesaid period of expiry as per the circular of the CBDT the respondent Assessing Officer should not have passed the impugned assessment order and further that without waiting for the direction to be made by the DRP on such objection which is mandatory provision apart from the circular of the Board CBDT which is binding upon the Assessing Officer being a sub-ordinate authority under Section 19 of the Income Tax Act, the impugned order is bad in law.

Learned advocate for the petitioner in support of his contention, has relied on an unreported judgment of the Hon'ble Delhi High Court dated 14th July, 2021 in the case of S.R.F. Ltd. Vs. National Faceless Assessment Centre, Delhi & Anr. in W.P.(C) 6484 of 2021 and another judgment of the Hon'ble Delhi High Court dated 6th August, 2021 in the case of Anand NVH Products Private Limited Vs. National E Assessment Centre Delhi & Anr. in W.P.(C) 7936 of 2021.

Mr. Chowdhury, learned advocate appearing for the respondents is not in a position to defend and justify the action of the respondents of passing the impugned assessment order in disregard to the aforesaid circular of the CBDT and also the action of the respondent Assessing Officer concerned in passing the impugned assessment

order without getting any instruction from the DRP within the time stipulated under the statute.

Considering the submission of the parties, this writ petition being WPA No.13778 of 2021 is disposed of by setting aside the impugned assessment order dated 30th July, 2021 and all subsequent actions or steps on the basis of such assessment. The respondent Assessing Officer shall proceed with the relevant assessment proceeding in question after getting the direction from the DRP in accordance with law.

The writ petition being WPA No.13778 of 2021 is disposed of.

(Md. Nizamuddin, J.)