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

+ **W.P.(C) 6365/2022 & CM APPLs.19227-19228/2022**

SMART CUBE INDIA PVT LTD

..... Petitioner

Through: Mr.Ajay Kumar, Sr.Advocate with
Mr.Aditya Vohra, Advocate.

versus

DEPUTY COMMISSIONER OF
INCOME TAX CIRCLE 22(2)

..... Respondent

Through: Mr.Sanjay Kumar, Advocate with
Ms.Easha Kadian, Advocate.

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Date of Decision: 21st April, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

MANMOHAN, J (Oral):

1. Present writ petition has been filed challenging the assessment order dated 30th March, 2022 passed under Section 143(3) read with Section 254, notice of demand issued under Section 156 and penalty notice issued under Section 274/ 271(1)(c) of the Income Tax Act, 1961 (for short 'the Act') all dated 30th March, 2022 for the assessment year 2011-12.

2. Learned senior counsel for the Petitioner states that the Respondent passed the impugned assessment order under Section 143(3) read with Section 254 of the Act assessing the income of the Petitioner at



Rs.3,29,33,145/-. He states that the impugned order passed by the Respondent illegally deprived the Petitioner of the option to file objections against the draft assessment order before the Dispute Resolution Panel ('DRP') as provided under Section 144C of the Act and is, therefore, wholly without jurisdiction and invalid.

3. Learned senior counsel for the Petitioner states that the Respondent has finalized assessment without first forwarding a draft of the proposed order of assessment which is an incurable defect rendering the assessment order a nullity, as repeatedly held by this Court in various decisions, including in *Turner International India (P) Ltd: [2017] 398 ITR 177 (Del)*, *JCB India Ltd: [2017] 398 ITR 189 (Del)* and *Pr CIT Vs. Headstrong Services India (P) Ltd: [2021] 278 Taxman 224 (Delhi)*.

4. Issue notice. Mr.Sanjay Kumar, Advocate accepts notice on behalf of respondent. He states that connected matters are listed before this Court on 10th October, 2022.

5. Accordingly, list the matter on 10th October, 2022.

6. Till further orders, the impugned assessment order, demand notice and penalty notice are stayed.

MANMOHAN, J

DINESH KUMAR SHARMA, J

APRIL 21, 2022
TS