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

+ W.P.(C) 12571/2021 & C.M.No.39576/2021

GRAND REALITY PVT. LTD.

..... Petitioner

Through Mr.Satyen Sethi with Mr.Arta Trana
Panda, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX (OSD), & ANR.

..... Respondents

Through Mr.Abhishek Maratha, Advocate.

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Date of Decision: 07th March, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SUDHIR KUMAR JAIN

J U D G M E N T

MANMOHAN, J (Oral):

1. Present writ petition has been filed challenging assessment order dated 29th September, 2021 passed under Section 147 read with Section 144 of the Income Tax Act, 1961 [for short 'the Act'] for the assessment year 2013-14 as well as the demand notice issued under Section 156 of the Act. Petitioner also seeks a direction to restrain the Respondents from giving effect to or proceeding further pursuant to the impugned order as well as demand notice.



2. Learned counsel for the Petitioner states that the procedure laid down by the Supreme Court in *GKN Driveshafts (India) Ltd. v. ITO (2003) 259 ITR 19* was not followed inasmuch as, although pursuant to notice dated 19th March, 2020 issued under Section 148 of the Act, the return was filed on 29th May, 2020, yet the reasons to believe were not provided within reasonable time as mandated by the Supreme Court and were provided only on 23rd September, 2021 i.e. after a gap of one and a half years.

3. He also states that the Petitioner was not granted any opportunity to file objections for re-opening of assessment as along with providing the reasons to the Petitioner, notices under Sections 143(2) and 142(1) of the Act with questionnaire were issued on 23rd September, 2021 requiring the Petitioner to submit its reply by 27th September, 2021.

4. He emphasises that the assessment proceedings were initiated just seven days before the limitation was set to expire. He states that the notices under Sections 142(1) and 143(2) of the Act were issued on 23rd September, 2021 and the impugned assessment order was issued on 29th September, 2021 i.e. within three working days, as 25th and 26th September were Saturday and Sunday. Consequently, he contends that Respondent No.1, while passing the impugned order, did not grant sufficient and reasonable opportunity of hearing to the Petitioner. In support of his contention, he relies on the judgment of the Supreme Court in *Sona Builders v. UOI (2001) 251 ITR 197*, wherein the order of appropriate Authority of the Income Tax Department was set aside by the Court after taking note of the fact that the assessee was given five days to respond, out of which two days were Saturday and Sunday.



5. In the present petition, on 10th November, 2021 this Court had issued notice as well as passed a stay order. On the said date, Mr.Abhishek Maratha, learned counsel for the Respondents had sought time to obtain instructions.

6. Today Mr.Maratha states that initially the Petitioner's case was being examined by National Faceless Assessment Centre. He states that subsequently the matter was re-transferred to the Assessing Officer on 22nd September, 2021. He emphasises that as the limitation for passing the assessment order was 31st September, 2021, the Assessing Officer proceeded to pass the assessment order on 29th September, 2021 after providing reasons and after issuing notices to the Petitioner under Section 142(1) and 143(2) of the Act on 23rd September, 2021.

7. Having heard learned counsel for the parties, this Court is of the view that even if the submissions advanced by learned counsel for the respondents are accepted, then also the delay in furnishing the reasons is completely attributable to National Faceless Assessment Centre i.e. the Income Tax Department. Further, in any event, the defence taken by learned counsel for the Respondents does not, in any manner, affect the Petitioner's primary grievance that there has been a violation of principle of natural justice inasmuch as the Petitioner did not get reasonable time to file its objections to the reasons dated 23rd September, 2021.

8. Consequently, the impugned assessment order dated 29th September, 2021 is quashed and the Petitioner is directed to file its objections to the reasons furnished by the Respondents on 23rd September, 2021 within a week. The Assessing Officer is directed to decide the said objections by way of a reasoned order in accordance with law, within two weeks



thereafter.

9. With the aforesaid directions, the present writ petition along with pending application stands disposed of.

MANMOHAN, J

SUDHIR KUMAR JAIN, J

MARCH 07, 2022
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HIGH COURT OF DELHI



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