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

% **Date of Decision: 14.07.2023**

+ **W.P.(C) 9289/2023 & CM Appl.35372/2023**

JYOTI NARANG

..... Petitioner

Through: Mr Prakash Kumar Sinha with Mr
Ajay Kumar, Mr Kartik Garg and Ms
Vartika Jain, Advs.

versus

INCOME TAX OFFICER

..... Respondent

Through: Mr Sunil Agarwal, Sr Standing
Counsel.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

1. Issue notice.
 - 1.1 Mr Sunil Agarwal, learned senior standing counsel accepts notice on behalf of the respondent/revenue.
2. In view of the directions that we intend to pass, Mr Agarwal says, that no counter-affidavit is required to be filed, and he will rely on the record presently available with the Court.
3. Insofar as the petitioner is concerned, the principal grievance is that there has been a breach of principles of natural justice.



4. The record shows, that the petitioner was issued a show-cause notice dated 09.05.2023 (SCN) proposing variation in income.
 - 4.1 Via the SCN, the petitioner was given time to file a response, albeit by 16.05.2023 (12:04 Hrs.).
5. However, it appears that the notice was directed to an incorrect email address. The e-mail address to which the SCN was directed is “dadasumit75@gmail.com”.
6. According to the petitioner, the correct e-mail address is “hridaanfurnitures@gmail.com”.
 - 6.1 The petitioner claims, that even in the return of income filed by her, the same e-mail address is given i.e., “hridaanfurnitures@gmail.com”.
7. Consequently, the submission is that the petitioner had no opportunity to respond to the SCN, and therefore seek a personal hearing in the matter.
8. Mr Sunil Agarwal, learned senior standing counsel, who appears on behalf of the respondent/revenue, says that on merits, there is a lot to be said, though that stage will arise, once a response is filed.
9. In view of the above, according to us, the best way forward would be to set aside the impugned assessment order, and grant an opportunity to the petitioner to file a response to the SCN.
10. It is ordered accordingly.
11. The impugned order dated 23.05.2023 is set aside.
 - 11.1 Consequently, the penalty and demand notices of even date, i.e., 23.05.2023, shall also collapse.
12. The petitioner will file a response to the aforementioned SCN, within the next four weeks.



13. The Assessing Officer (AO) will open the designated portal to enable the petitioner to upload the response. The AO will also issue a notice to the petitioner, indicating therein, the date and time of hearing.
14. Consequently, the impugned demand and penalty notice will also collapse.
15. Needless to add, the AO will pass a speaking order; a copy of which will be served on the petitioner.
16. The above-captioned writ petition is disposed of in the aforesaid terms.
17. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

JULY 14, 2023/pmc