



\$~89, 90, 91, 93, 95, 98 & 99

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

% **Decision delivered on: 19.05.2023**

+ **W.P.(C) 6818/2023 & CM Nos.26617-18/2023**
PRATYAKSH APPARELS PVT LTD Petitioner

versus

DEPUTY COMMISSIONER OF INCOME TAX..... Respondent

+ **W.P.(C) 6827/2023 & CM Nos.26747-48/2023**
PRATYAKSH APPARELS PVT LTD Petitioner

versus

DEPUTY COMMISSIONER OF INCOME TAX..... Respondent

+ **W.P.(C) 6828/2023 & CM Nos.26749-50/2023**
PRATYAKSH APPARELS PVT LTD Petitioner

versus

DEPUTY COMMISSIONER OF INCOME TAX..... Respondent

+ **W.P.(C) 6830/2023 & CM Nos.26756-57/2023**
PRATYAKSH APPARELS PVT LTD Petitioner

versus

DEPUTY COMMISSIONER OF INCOME TAX..... Respondent

+ **W.P.(C) 6832/2023 & CM Nos.26761-62/2023**
PRATYAKSH APPARAELS PVT LTD Petitioner

versus

DEPUTY COMMISSIONER OF INCOME TAX..... Respondent

+ **W.P.(C) 6837/2023 & CM Nos.26773-74/2023**
PRATYAKSH APPARELS PVT LTD Petitioner

versus

DEPUTY COMMISSIONER OF INCOME TAX..... Respondent

+ **W.P.(C) 6839/2023 & CM Nos.26775-76/2023**
PRATYAKSH APPARAELS PVT LTD Petitioner

versus

DEPUTY COMMISSIONER OF INCOME TAX..... Respondent

Present : Mr Kirti Uppal, Sr Adv. with Ms Kiran Kalra Uppal, Mr Prateek Solanki, Mr Nikhil Malhotra, Ms Shalini Bhardwaj and Mr Shekhar Kumar, Advs. for petitioner.

Mr Gaurav Gupta, Sr Standing Counsel with Mr Puneett



Singhal and Mr Shivendra Singh, Jr Standing Counsel for respondent.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

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

RAJIV SHAKDHER, J. (ORAL):

CM No.26617/2023 in W.P.(C) 6818/2023

CM No.26747/2023 in W.P.(C) 6827/2023

CM No.26749/2023 in W.P.(C) 6828/2023

CM No.26756/2023 in W.P.(C) 6830/2023

CM No.26761/2023 in W.P.(C) 6832/2023

CM No.26773/2023 in W.P.(C) 6837/2023

CM No.26775/2023 in W.P.(C) 6839/2023

1. Allowed, subject to just exceptions.

W.P.(C) 6818/2023 & CM No.26618/2023

W.P.(C) 6827/2023 & CM No.26748/2023

W.P.(C) 6828/2023 & CM No.26750/2023

W.P.(C) 6830/2023 & CM No.26757/2023

W.P.(C) 6832/2023 & CM No.26762/2023

W.P.(C) 6837/2023 & CM No.26774/2023

W.P.(C) 6839/2023 & CM No.26776/2023 [*Applications filed on behalf of the petitioner seeking interim relief*]

2. Issue notice.

2.1 Mr Gaurav Gupta, learned senior standing counsel accepts notice on behalf of the respondents/revenue.

3. Given the order that we propose to pass, Mr Gupta says that counter-affidavit(s) need not be filed, and he will argue the above-captioned writ petitions, based on the record presently available to the Court.

3.1 Thus, with the consent of learned counsel for the parties, these writ



petitions are taken up for hearing and final disposal at this stage itself.

4. These writ petitions concern Assessment Year (AY) 2017-18 [W.P.(C) No.6818/2023]; AY 2013-14 [W.P.(C)No.6827/2023]; AY 2016-17 [W.P.(C)No.6828/2023]; AY 2015-16 [W.P.(C)No.6830/2023]; AY 2018-19 [W.P.(C)No.6832/2023]; AY 2019-20 [W.P.(C)No.6837/2023] and AY 2014-15 [W.P.(C)No.6839/2023].

5. The petitioner in these writ petitions has laid a challenge to six separate assessment orders of even date i.e., 28.03.2023 passed under Section 153C read with Section 144 of the Income Tax Act, 1961 [in short, “Act”].

6. The short ground on which the petitioner seeks to assail the aforementioned assessment orders and the consequent six demand notices of even date i.e., 28.03.2023 issued under Section 156 of the Act is, that there has been a breach of principles of natural justice.

7. The record shows, that in each of the abovementioned cases, the petitioner was issued six separate notices of even date, i.e., 14.03.2023 under Section 153C of the Act.

7.1 *Via* these notices, the petitioner was given leave to file its return of income within 30 days. The said notices were followed by another set of notices, which were also six in number. These notices were dated 20.03.2023 and were issued under Section 142(1) of the Act. *Via* these notices, the petitioner was required to file the relevant documents/information within two days i.e., by 22.03.2023.

7.2 In view of the fact that the period accorded to the petitioner was extremely short, the petitioner had asked for 30 days to respond to the said notice.



7.3 In this context, the petitioner drew the Assessing Officer's (AO) attention to the fact, that *via* notice dated 14.03.2023, 30 days' time had been granted to file the return.

8. Unfortunately for the petitioner, the AO passed the impugned assessment orders dated 28.03.2023, without granting the time sought for by the petitioner.

9. Although representations were made thereafter by the petitioner for each of the assessment years on 12.04.2023, requesting the respondent to refrain from initiating penalty proceedings, there has been no movement in the matter.

10. Given this position, we are of the view, that the AO had put the petitioner on an extremely tight leash. The AO expected the petitioner to gather information for six AYs within two days, which by any yardstick was not a practical timeframe.

10.1 This is especially so, as the AO, while issuing notice under Section 153C of the Act, had granted 30 days to the petitioner to file the return of income concerning the AYs in issue.

11. Thus, for the foregoing reasons, we are inclined to set aside the impugned assessment orders.

12. It is ordered accordingly.

13. Given this position, the consequent demand notices issued under Section 156 of the Act would also collapse.

14. Liberty is, however, given to the AO to carry out a fresh exercise, from the stage at which the matter was positioned when the notice dated 20.03.2023 under Section 142(1) of the Act was issued. This notice has not been set aside by us. The petitioner/assessee will have to respond to the



same, and furnish relevant information, within the next four weeks.

15. It is made clear, that the AO will provide the information and material which, although in his possession, has not been furnished to the petitioner.

15.1 Furthermore, before proceeding further, the AO will also grant personal hearing to the authorized representative of the petitioner. Notice in this behalf will be issued to the petitioner by the AO, which will indicate the date and time of the hearing.

16. The above-captioned writ petitions are disposed of in the aforesaid terms.

17. Consequently, the pending interlocutory applications shall also stand closed.

18. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

MAY 19, 2023

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