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

of Decision: 06.08.2021

+ **W.P.(C) 7896/2021 & CM APPL. 24553-54/2021**

JAVIN CONSTRUCTION PRIVATE LIMITED Petitioner
Through: Mr.Ved Jain & Ms.Richa
Mishra, Advs.

versus

NATIONAL FACELESS ASSESSMENT CENTRE & ORS.
..... Respondents
Through: Mr.Udit Sharma, Adv. on
behalf of Ms.Vibhooti
Malhotra, Sr. Standing Counsel.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE NAVIN CHAWLA

MANMOHAN, J. (Oral)

The petition has been heard by way of video conferencing.

1. Present writ petition has been filed challenging the impugned assessment order, notice of demand, show cause notice for imposition of penalty under Section 274 read with Section 271AAC(1) and penalty under Section 274 read with Section 270A of the Income Tax Act, 1961 [the Act] dated 22nd April 2021.

management strategy specified by the Board, including by way of an automated examination tool, whereupon it may decide to—

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xxxx

(b) provide an opportunity to the assessee, in case any variation prejudicial to the interest of assessee is proposed, by serving a notice calling upon him to show cause as to why the proposed variation should not be made; or

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xxx

xxx

(9) Notwithstanding anything contained in any other provision of this Act, assessment made under sub-section (3) of section 143 or under section 144 in the cases referred to in sub_section (2) [other than the cases transferred under sub-section (8)], on or after the 1st day of April, 2021, shall be non est if such assessment is not made in accordance with the procedure laid down under this section.”

6. Since in the present case no prior show cause notice as well as draft assessment order have been issued, there is a violation of principles of natural justice as well as mandatory procedure prescribed under “Faceless Assessment Scheme”.

7. Keeping in view the aforesaid, the impugned assessment order, notice of demand, show cause notice for imposition of penalty under Section 274 read with Section 271AAC(1) and penalty under Section 274 read with Section 270A of the Act, dated 22nd April 2021, are set aside and the matter is remanded back to the Assessing Officer, who shall issue a draft assessment order and thereafter pass a reasoned order in accordance with law.

8. With the aforesaid direction, the present writ petition along with pending applications stands disposed of.

9. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

NAVIN CHAWLA, J

AUGUST 6, 2021/rv

HIGH COURT OF DELHI



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