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

+ W.P.(C) 6370/2021 & CM APPL.20030/2021

ANKIT KAPOOR

..... Petitioner

Through: Mr. P. Roychaudhari, Advocate.

versus

THE INCOME TAX OFFICER, WARD 63 4 & ANR.

..... Respondents

Through: Mr. Zoheb Hossain, Sr. Standing
Counsel for Revenue.
Mr. Ripudaman Bhardwaj, CGSC
with Mr. Kushagra Kumar, Advocate
for R-2/ITAT.

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Date of Decision: 23rd July, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

JUDGMENT

MANMOHAN, J: (Oral)

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the order dated 27th February, 2020 passed by the Income Tax Appellate Tribunal [ITAT] in Miscellaneous Application No. 183/2019. Petitioner also seeks a direction to

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the ITAT to hear the said Miscellaneous Application afresh.

3. Learned counsel for the Petitioner states that the impugned order was passed by Respondent No. 2, without mentioning the matter in the cause list because of which the Petitioner was unable to present his case and it has caused grave prejudice to the Petitioner.

4. He states that the Miscellaneous Application was heard on 14th February, 2020 and it was listed for further hearing on 28th February 2020. He further points out that on 28th February, 2020, the Petitioner did not find his matter in the cause list and was informed by the Registry that his matter had already been heard on 21st February, 2020 and was dismissed on 27th February 2020.

5. Learned counsel for the Petitioner states that the Impugned Order deserves to be quashed as the Petitioner did not get adequate and fair opportunity to represent his case. He contends that Petitioner was under a bonafide belief that his case will be taken up for hearing on 28th February, 2020 as pronounced in the Court on the last date of hearing i.e. 14th February 2020.

6. Issue notice.

7. Mr. Zoheb Hossain, learned senior standing counsel for Revenue accepts notice. He states that he has no instructions in the matter. He, however, states that non-publication of daily cause list is causing inconvenience to the litigants.

8. Mr. Ripudaman Bhardwaj, learned standing counsel for Respondent No.2/ITAT has placed on record a letter dated 15th July, 2021 containing the instructions that he has received. The relevant portion of the said letter is reproduced herein below:-

“.... Sub: Writ Petition (civil) filed before the Hon'ble High Court of Delhi. W.P. (C) 6370/2021 & CM APPL.2030/2021 in the case of Shri Ankit Kapoor vs The Income Tax Officer, Ward 63(4) & ANR

Sir,

With reference to the captioned matter I am directed to narrate the facts of the case to you to appraise the Hon'ble Court of the same which are as under:-

- 1. In this connection, it is submitted that, the aforesaid MA No. 183/Del/2019 was filed on 8/3/19 and put up before the bench on 13.6.19. The bench directed to register the M.A. on 17.9.19. The case was listed on 20.9.19 for 18.10.19 and adjourned for 1.11.19, on which day the matter was adjourned for 13.12.19 at the request of the counsel. The case was again listed for hearing on 07.02.2020 on which date Shri Raj Kumar Gupta, Advocate appeared on behalf of the assessee before the Bench. On the said date, the counsel sought time from the bench for filing an affidavit of Shri P. Roychaudhuri, Advocate . The case was adjourned by the bench to 21.02.2020, copy of order sheet is enclosed for kind perusal.*
- 2. It is intimated that due to clerical error, the matter was not reflected in the cause list of 21.02.2020, but since the case was noted by the counsel before the Bench, the matter was taken up by the bench on 21.02.2020 and since none appeared on the behalf of the assessee even after noting the case, the matter was heard and order pronounced by the bench on 27.02.2020. Although the matter was not listed in the Friday list published before the date of hearing due to oversight, the same was included in the revised list displayed on the notice board and mentioned in the revised list before the bench comprising Shri Bhavnesh Saini, JM and Shri BRR Kumar, AM (copy enclosed).*
- 3. Copies of order sheet in ITA 7692/D/18 and MA No. 183/Del/19 were given to the petitioner under RTI and it is observed that the averment of the petitioner that the case was adjourned to 14.02.2020 from 07.02.2020 and to 28.02.2020 from 14.02.2020 is wrong and is not borne from record. The contention of the petitioner that the M.A. was registered on 18.10.2019 is also not correct (kindly see copies of ordersheet in the case).*

4. *Your goodself is requested to appraise the Hon'ble High Court of the facts of the case.*
5. *You are further requested to make a submission before the Hon'ble Court that the Tribunal is not interested in the outcome of the assessee's Writ Appeal and will respectfully carry out the orders which may ultimately be passed by the Hon'ble High Court.*

*Sd/-
Assistant Registrar
ITAT, New Delhi*

9. Though, from the aforesaid letter, it is apparent that the petitioner's matter had been adjourned to 21st February, 2020 on 07th February, 2020, yet this Court is of the view that the petitioner did not have adequate notice or fair opportunity to represent his case as neither the daily order-sheets nor the revised cause list had been uploaded on the website of the ITAT.

Consequently, the impugned order dated 27th February, 2020 passed by the ITAT in Miscellaneous Application No.183/2019 is set aside and the ITAT is directed to hear the said Miscellaneous Application afresh.

10. This Court is also of the view that non-publication of daily order-sheets as well as the revised cause list on the website by the ITAT results in inconvenience to the litigants in general and to the lawyers in particular.

11. Accordingly, this Court directs the ITAT to upload the daily order-sheets and revised cause list on its website. System in this regard be put in place by the ITAT, if not already there, as expeditiously as possible, preferably, within three months.

12. With the aforesaid direction, the present writ petition along with pending application stands disposed of.

13. 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

JULY 23, 2021
AS

