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

+ W.P.(C) 5912/2021

THREE C HOMES PVT. LTD.

..... Petitioner

Through Mr.Rishabh Jain, Advocate with
Mr.Gaurav Katiyar, Resolution
Professional.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL
CIRCLE 6, NEW DELHI

..... Respondent

Through Mr.N.Venkataraman, ASG with
Mr.Sunil Agarwal, Sr.Standing
Counsel with Mr.Tushar Gupta,
Advocate.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **28.07.2021**

Present petition has been heard by way of video conferencing.

C.M.No.22539/2021

Present application has been filed seeking modification/recall of the order dated 16th July, 2021 passed in W.P.(C) No.5912/2021, whereby the Central Bureau of Investigation was directed to enquire as to whether the email dated 31st May, 2021 annexed by the petitioner as Annexure P-4 had been issued to the petitioner or not by the respondent and/or Tax Department.

The learned ASG, on instructions from the respondent-Revenue, admits that the aforesaid email attached as Annexure P-4 received by the

petitioner/taxpayer from donotreply@incometaxindiaefiling.gov.in is a genuine email from the Department. He, however, states that it was triggered due to a systems error. He emphasises that in the present case, the assessee had made an application for adjournment on 31st May, 2021 on the e-filing website, which generated an automated acknowledgement confirming submission of the same, as per the standard protocol. He states that the respondent/applicant was under a *bona fide* belief that any communication issued in response to petitioner's request for adjournment would be issued with respondent's express consent alone.

Learned ASG seeks leave to withdraw/delete certain parts/paras from the counter affidavit dated 10th July, 2021, wherein it had been alleged that the petitioner had prima facie committed penal offences under Section 191, 192 and 196 of the IPC.

The deponent of the counter-affidavit, who is personally present in Court by way of online video link, acknowledges that the allegation of perjury, without verification of facts, should not have been made and seeks permission to unconditionally withdraw the same. He expresses his regrets for the same and undertakes to be more careful in the future.

Keeping in view the aforesaid, the unconditional apology offered by the respondent is accepted by this Court and the allegations against the petitioner that he had had prima facie committed penal offences under Section 191, 192 and 196 of the IPC are deleted.

Consequently, the order dated 16th July, 2021 directing the Central Bureau of Investigation to enquire as to whether the email dated 31st May, 2021 had been issued to the petitioner by the respondent-Tax Department is recalled.

Accordingly, the application stands disposed of.

The Registry is directed to forward a copy of this order to the Director, CBI.

W.P.(C) No.22539/2021

With consent of the parties, the present writ petition is taken up for hearing.

Learned ASG, on instructions, admits that the impugned assessment order and notice of demand have been passed in violation of principle of natural justice. He prays that the present writ petition be allowed and the matter be remanded back for fresh determination.

Consequently, the impugned assessment order and notice of demand are set aside and the matter is remanded back to the respondent for passing a fresh assessment order, in accordance with law, after giving an opportunity of hearing to the petitioner.

Accordingly, the present writ petition stands disposed of.

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 28, 2021
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