

2022 LiveLaw (Del) 225

IN THE HIGH COURT OF DELHI AT NEW DELHI

MANMOHAN; DINESH KUMAR SHARMA, JJ.

W.P.(C) 4447/2022 & CM APPLs. 13280-13281/2022; 16th March, 2022

MAYUR BATRA versus ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 61(1) & ANR.

Income Tax Act, 1961; Section 271(1)(c) - Penalty order passed by the income tax authority without granting a hearing to the assessee is violative of the principles of natural justice. (Para 5 – 7)

Petitioner Through: Mr. Ruchesh Sinha, Advocate; Respondents Through: Mr. Sanjay Kumar, Advocate with Ms. Easha Kadian, Advocate.

J U D G M E N T

MANMOHAN, J:

1. Present writ petition has been filed challenging the Penalty order dated 7th February, 2022 passed by the respondents under Section 271(1)(c) of Income Tax Act, 1961 (hereinafter referred to as 'the Act') for the Assessment Year 2015-16.
2. Learned counsel for the petitioner states that before levying the penalty, the replies of the petitioner filed on 17th December, 2021 and reiterated as well as uploaded on 22nd and 27th January, 2022 were not considered by the respondents. He further states that the petitioner has not been granted personal hearing in the matter despite repeated requests.
3. Issue notice.
4. Mr. Sanjay Kumar, learned counsel accepts notice on behalf of the respondents. He states that he has no instructions in the matter.
5. Upon perusal of the paper book as well as screenshot of the Income Tax Portal pertaining to the petitioner, in particular, this court finds that the petitioner had filed his replies to the notices issued to him by the respondents. Despite filing of the said replies, the same were not considered while passing the impugned order. In fact the impugned order states that despite giving several opportunities the petitioner had not filed any reply/response.
6. Further, this Court in ***Bharat Aluminium Company Ltd. vs. Union of India & Ors., (2022) SCC OnLine Del 105*** has laid down that an assessee has a vested right to personal hearing and the same has to be given if such a request is made by the assessee.
7. Consequently, the impugned order is set aside on the ground that it is violative of the principle of natural justice and the matter is remanded back to the respondent no.2 for fresh adjudication. The respondent no.2 shall grant a hearing to the petitioner before passing an order. The respondent no.2 is directed to decide the matter in accordance with law within twelve weeks. With the aforesaid direction, present writ petition and applications stand disposed of.