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

+ W.P.(C) 8044/2020

LAKSHYA BUDHIRAJA Petitioner
Through: Mr.Ruchesh Sinha, Advocate.

versus

UNION OF INDIA & ANR. Respondents
Through: Ms.Nidhi Banga, Sr.Standing Counsel
for R-1/UIO.
Mr.Zoheb Hossain, Sr.Standing
Counsel for R-2.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
16.10.2020

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The petition has been listed before this Bench by the Registry in view of the urgency expressed therein. The same has been heard by way of video conferencing.

Present writ petition has been filed seeking a direction to the respondents to grant an opportunity of hearing to all taxpayers/assessee and to hold that the same is not at the discretion of the Chief Commissioner or the Director General as proposed in the Faceless Appeal Scheme, 2020 notified from 25th September, 2020.

Petitioner further prays for a declaration that Faceless Appeal Scheme, 2020 is discriminatory, arbitrary and illegal to the extent it provides a virtual hearing as per the circumstances to be approved by the

administrative authorities under the Income Tax Act, 1961 (hereinafter referred to as the 'Act').

Learned counsel for the petitioner states that in terms of the new Faceless Appeal Scheme, 2020, the right of being heard, even through the videoconferencing mode shall be subject to the approval of the Chief Commissioner or the Director General and therefore the same is discretionary, i.e. he "may" or "may not" provide a right of personal hearing in the matter.

He submits that the aforesaid mechanism is discriminatory and is against the settled principles of law and in violation of the Article 14 of the Constitution of India. He further submits that the right to provide or not to provide a hearing in the matter is also against the principle of *audi alteram partem* i.e. no person should be judged without a fair hearing in which each party is given an opportunity to respond to the evidence against them.

He further submits that the Faceless Appeal Scheme is contrary to sections 250(1), 250(2) and 250(5) of the Act, which specifically state that right of hearing shall be granted to an assessee at the appeal stage.

Issue notice.

Ms.Nidhi Banga, Sr.Standing Counsel accepts notice on behalf of respondent no.1/UOI and Mr.Zoheb Hossain, Sr.Standing Counsel accepts notice on behalf of respondent no.2/Department. They pray for and are permitted to file their counter-affidavits, within four weeks. Rejoinder-affidavits, if any, be filed before the next date of hearing.

List on 15th December, 2020.

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

MANMOHAN, J

SANJEEV NARULA, J

OCTOBER 16, 2020
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