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

+ **W.P.(C) 5185/2021**

SAMS FACILITIES MANAGEMENT PRIVATE LIMITED

..... Petitioner

Through: Mr. Manuj Sabharwal, Adv.

versus

NATIONAL FACELESS ASSESSMENT CENTRE & ANR.

..... Respondents

Through: Mr. Ruchir Bhatia, Sr. Standing
Counsel.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

ORDER

% **06.05.2021**

[Court hearing convened *via* video-conferencing on account of COVID-19]

CM APPL. Nos.15917/2021, 15918/2021

1. Allowed, subject to just exceptions.

W.P.(C) 5185/2021 & CM APPL. No.15916/2021 [Application filed on behalf of the petitioner seeking a stay on the impugned order dated 21.04.2021]

2. The claim of the petitioner is that the impugned assessment order dated 21.04.2021 has been passed, without adherence to the statutory provisions contained in clauses (xiv) to (xvi) of Section 144B (1), and 144B (9) of the Income Tax Act, 1961 (in short "the Act").

3. The petitioner claims that the impugned assessment order was passed without passing a draft assessment order and the variation made in the declared income was carried out without issuance of a show cause notice. In other words, the contention is that the impugned assessment order, having been passed in violation of the aforesaid provisions of the Act, is *non est* in law.

4. We may note that the addition made, to the petitioner's declared income, is Rs. 2,85,58,456/-.

5. Mr. Ruchir Bhatia, who appears on behalf of respondents, has, broadly, made two submissions. Firstly, that Section 144B of the Act would not apply as the assessment year in issue is 2018-2019 and secondly, in any event, Section 144B (9) of the Act would have no applicability.

6. On the other hand, Mr. Manuj Sabharwal, in rejoinder, says that the circulars issued by the CBDT, which are appended on pages 103-107 of the paper book, establish that the provisions of Section 144B of the Act would apply to even those proceedings, which were pending, on 01.04.2021.

7. According to us, the matter requires examination.

8. Accordingly, issue notice. Mr. Ruchir Bhatia accepts service on behalf of the respondent. A counter-affidavit will be filed within four weeks. Rejoinder thereto, if any, will be filed before the next date of hearing.

9. In the meanwhile, there shall be a stay on the operation of the impugned assessment order dated 21.04.2021.

10. List the matter on 13.08.2021.

RAJIV SHAKDHER, J

TALWANT SINGH, J

MAY 6, 2021/pmc
W.P.(C) 5185/2021

[Click here to check corrigendum, if any](#)

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