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

% **Date of Decision: 01.09.2023**

+ **W.P.(C) 9471/2023 & CM APPL. 36180/2023**

SUBODH GUPTA Petitioner
Through: Dr. Rakesh Gupta with Mr Somil Agarwal and Mr Anshul Mittal, Advocates.
versus
ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 28(1), DELHI & ANR. Respondents
Through: Mr Shlok Chandra, Sr. Standing Counsel with Ms Priya Sarkar and Mr Keshav Garg, Advocates.

+ **W.P.(C) 9472/2023 & CM APPL. 36182/2023**

SUBODH GUPTA Petitioner
Through: Dr. Rakesh Gupta with Mr Somil Agarwal and Mr Anshul Mittal, Advocates.
versus
ASSISTANT COMMISSIONER OF INCOME TAX & ORS. Respondents
Through: Mr Shlok Chandra, Sr. Standing Counsel with Ms Priya Sarkar and Mr Keshav Garg, Advocates.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MR. JUSTICE GIRISH KATHPALIA
[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

1. We have heard counsel for the parties at some length on 19.07.2023 and we have asked Mr Shlok Chandra, learned senior standing counsel, who



appears on behalf of respondents/revenue, to obtain instructions in the matter.

2. For the sake of convenience, the relevant part of order dated 19.07.2023 is extracted hereafter:

“2. These writ petitions concern Assessment Year (AY) 2015-16 [WP(C) 9471/2023] and AY 2016-17 [WP(C) 9472/2023].

3. Dr Rakesh Gupta, learned counsel, who appears on behalf of the petitioner, says that in the above-captioned writ petitions, the petitioner has approached this court on a very limited ground, i.e., breach of principles of natural justice.

4. The record shows that two separate show cause notices of even date, i.e., 11.05.2023, were issued proposing variation of income.

5. A link was transmitted to the petitioner for personal hearing via video conferencing; fixed on 22.05.2023.

6. It is the petitioner’s case that since the Assessing Officer (AO) did not log in till 01.39 p.m. he was issued a fresh link for 24.05.2023.

6.1 It is averred by the petitioner that, on 24.05.2023, the hearing was disrupted since the audio was absent during the video conference, and hence, interaction between the petitioner’s authorized representative and the AO took place via the chat box.

6. It is in this context that assessment order dated 30.05.2023 is assailed in WP(C) 9471/2023, and likewise assessment order dated 31.05.2023 is challenged in WP(C) 9472/2023.

7. Mr Shlok Chandra, learned senior standing counsel, who appears on behalf of the respondents/revenue, will ascertain from the AO, the exact position in the backdrop of the assertions made by the petitioner.

8. List the matters on 19.07.2023.”

3. On 09.08.2023, Mr Chandra sought further time to obtain instructions regarding the aspect that we had recorded on 19.07.2023.

4. Mr Chandra has returned with instructions. Mr Chandra states that the audio was indeed disrupted, and therefore effective hearing did not take place.

5. Having regard to the aforesaid, we are inclined to set aside the



impugned assessment orders.

6. It is ordered accordingly.

7. Accordingly, assessment orders dated 30.05.2023 & 31.05.2023 passed in W.P. (C) 9471/2023 and 9472/2023 respectively are set aside.

8. However, the Assessing Officer (AO) will be at liberty to pass fresh assessment order after according personal hearing to the petitioner and/or his authorized representative.

9. The AO in this regard will issue notice to the petitioner indicating therein date and time of the hearing.

10. The above-captioned writ petitions are disposed of, in the aforesaid terms.

11. Pending interlocutory applications stand disposed of.

12. Accordingly, interim order dated 09.08.2023 stands vacated.

**RAJIV SHAKDHER
JUDGE**

**GIRISH KATHPALIA
JUDGE**

SEPTEMBER 1, 2023/R.Y

Click here to check corrigendum, if any