

SRF Ltd Vs National Faceless Assessment Centre, Delhi & Anr.

Court: Delhi High Court

Date of Decision: July 14, 2021

Acts Referred: Income Tax Act, 1961 " Section 143(3), 144B, 144B(1) (xxix), 144B(1) (xxx), 144B(1) (xxxi), 144C(1), 144C(2), 144C(3), 144C(5), 144C(13), 156

Hon'ble Judges: Manmohan, J; Navin Chawla, J

Bench: Division Bench

Advocate: Satyen Sethi, Arta Trana Panda, Vibhooti Malhotra

Final Decision: Disposed Of

Judgement

Manmohan, J

CM APPL. 20376/2021 (exemption)

1. Allowed, subject to all just exceptions.
2. Accordingly, the application stands disposed of.

W.P.(C) 6484/2021 & CM APPL. 20375/2021

3. Present petition has been heard by way of video conferencing.
4. Present writ petition has been filed challenging the final assessment order dated 30th June, 2021 passed under Section 143(3) read with Sections

144C(3) and 144B of the Income Tax Act, 1961 [Act, the Act] and the demand notice of Rs. 56,76,09,018/- issued under Section 156 of the Act

for the Assessment Year 2017-18. Petitioner also seeks directions to the Respondents not to take any action or initiate further proceedings in

furtherance of the impugned assessment order and demand notice.

5. Learned counsel for the Petitioner states that vide draft assessment order dated 05th May, 2021 issued under Section 144C(1) of the Act, the total

income of the Petitioner was proposed at Rs. 450,02,37,902/-. He points out that under section 144C(2), the Petitioner had thirty days (30 days) to file

objections to Dispute Resolution Panel [DRP] against the draft order, i.e. by 04th June 2021.

6. He emphasises that since the office of Petitioner was closed due to lockdown in Delhi, therefore, objections to the draft order could not be filed

within thirty days (30 days) of receipt of the draft order, i.e. by 04th June, 2021 and were filed on 21st June, 2021.

7. He points out that the CBDT by Circular No.12 of 2021 and Notification No.74/2021 dated 25th June 2021 provided relaxation in respect of time

limits of certain compliances and vide para 1 of the circular, time limit to file objections to DRP, where the same were to be filed by 01st June 2021 or

thereafter were extended to 31st August, 2021 and the time limit for completion of assessment was extended to 30th September 2021.

8. He states that in view of Circular No.12 of 2021 dated 25th June 2021, the objections under section 144(2) of the Act to the draft order dated 05th

May 2021, filed on 21st June 2021 were within time.

9. He points out that the Respondent No.1 erred in considering that the Petitioner had opted not to file objections to the draft order dated 05th May,

2021 and in complete ignorance of the time limits extended by Circular No. 12/2021 and Notification No.74/2021 both dated 25th June 2021, passed

the impugned assessment order dated 30th June 2021 under section 143(3) read with sections 144C(3) and 144B of the Act and thereby, assessed the

total income at Rs.450,02,37,902/- and raised a demand of Rs.56,76,09,018/- vide demand notice issued under section 156 of the Act.

10. He contends that since the objections to draft assessment order dated 05th May 2021 were filed and the same were pending disposal with the

DRP, the Respondent No.1 had no jurisdiction to pass the impugned assessment under Section 143(3) read with section 144C (3). He emphasises that

the mandate of Section 144C(13) of the Act is that on receipt of the directions of DRP under section 144C(5) of the Act, the Assessing Officer

(Respondent No.1 herein) shall complete the assessment in conformity with the directions of the DRP which was not done in the present case.

11. Issue notice. Ms, Vibhooti Malhotra accepts notice on behalf of respondents. She states that in view of the facts of the present case, she has no

objection if the present matter is remitted to the DRP.

12. Keeping in view the aforesaid, the final assessment order dated 30th June, 2021 as well as the demand notice of Rs. 56,76,09,018/- (Rupees Fifty

Six Crores Seventy Six Lakhs Nine Thousand and Eighteen only) issued under Section 156 of the Act for the assessment year 2017-18 is quashed and

the matter is remitted to the DRP for consideration under Section 144(C) of the Act. Thereafter, the assessment order shall be passed in accordance

with the procedure stipulated under Section 144B(1) (xxix) to (xxxi) as well as Section 144(C) of the Act.

13. Accordingly, the present writ petition along with pending application stands disposed of.

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