

Delhi HC set aside the order passed by the Assessing Officer as no personal hearing was granted to the assessee

In ***Naresh Kumar Goyal v. National Faceless Assessment Centre & Ors. [W.P.(C) 6245/2021 & CM APPLs. 19753-54/2021 decided on July 12, 2021]***, Naresh Kumar Goyal (“**the Petitioner**”) challenged the show cause notice and the draft assessment order both dated April 19, 2021, penalty notice dated May 20, 2021 (“**the Notices**”) and the assessment order dated May 20, 2021 (“**the Impugned Order**”) passed by the Department.

The Petitioner contended that, the Impugned Order and the Notices have been passed without granting an opportunity for personal hearing and thus, are in gross violation of principles of natural justice.

The Petitioner further contended that the Respondent rejected the request of the Petitioner for personal hearing merely because such request was not made by the Petitioner through the link provided by the Department in SCN. However, no such link and manner was prescribed in the SCN.

The Department contended that there is no vested right in the Petitioner to claim personal hearing as the expression used in clause (vii) of sub-section (7) of Section 144B of the Income tax Act, 1961 (“**IT Act**”) is ‘may’ and not ‘shall’.

The Hon’ble Delhi High Court analyzed Section 144B(7) of the IT Act and relied on *Sanjay Aggarwal v. National Faceless Assessment Centre Delhi [W.P. (C) 5741/2021 dated June 2, 2021]* to state that personal hearing is to be provided. Further, set aside the Impugned Order and the Notices and remanded back the matter to the Assessing officer to pass the order after providing opportunity of hearing to the Petitioner

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