

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 7131/2021

Rajesh Kumar Gupta S/o Nand Kishore Khandelwal, Aged About 50 Years, Resident Of B-92, Rajdhanianaj Mandi, Sikar Road, Jaipur- 302001.

-----Petitioner

Versus

1. Additional/Joint/Deputy/Assistant Commissioner Of Income Tax/Income Tax Officer, National E-Assessment Centre, Delhi.
2. Deputy Commissioner Of Income Tax, Circle-4, New Central Revenue Building, Jaipur.

-----Respondents

For Petitioner(s) : Mr. Gunjan Pathak, Adv.

HON'BLE MR. JUSTICE ASHOK KUMAR GAUR

Order

14/07/2021

Learned counsel for the petitioner submitted that the case of the petitioner was selected for complete scrutiny assessment under CASS (Computer Assisted Scrutiny Selection) and return was processed under Section 143(1) of the Income Tax Act, 1961 (in short "the Act of 1961) and thereafter notice was issued under Section 143(2) of the Act of 1961.

Learned counsel for the petitioner submitted that after issuance of initial notice, several queries were put to the petitioner and the same were replied by him.

Learned counsel submitted that the draft order under Section 143(3) read with Section 144B of the Act of 1961 was passed on 19.04.2021 and the petitioner was given a show cause notice for

filing his response against the draft assessment order dated 21.04.2021.

Learned counsel submitted that response of the petitioner was sought through registered e-filing account by 23.59 hours of 23.04.2021 and as such only two days time was given to the petitioner to submit his response.

Learned counsel submitted that due to COVID-19, there was lock-down in the State of Rajasthan during the relevant period i.e. 21.04.2021 to 23.04.2021 and as such the petitioner had no access to his Chartered Accountant or to consult relevant person to file his response.

Learned counsel submitted that the impugned assessment order has now been passed on 18.05.2021. Learned counsel submitted that the petitioner was not afforded proper opportunity of hearing and the directions, which were given by the Apex Court in Misc. Application No.665/2021 in SMW (C) No.3/20 dated 27.04.2021 was also not followed by the Authority including the respondent.

Learned counsel submitted that the similar issue has been considered by the different High Courts like Delhi High Court & Bombay High Court.

Issue notice of the writ petition as well as stay application, returnable on 09.08.2021. Notices be given 'dasti' if prayed.

Till the next date, the respondents are restrained to take any coercive action against the petitioner in pursuance of assessment order dated 18.05.2021.

(ASHOK KUMAR GAUR),J