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

+ **W.P. (C) 3271/2020**

SANJAY JHUNJHUNWALAPetitioner
Through: Mr. Abhimanyu Bhandari, Advocate
with Ms. Roohina Dua and
Mr. Cheitanya Madan, Advocates.

versus

UNION OF INDIA & ORS.Respondents
Through: Mr. Asheesh Jain, CGSC with
Mr. Adarsh Kr. Gupta, Advocate for
respondent No.1.
Mr. Zoheb Hossain, Sr. Standing
counsel with Mr. Parth Semwal,
Advocate for Income Tax.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE SANJEEV NARULA

% **ORDER**
29.05.2020

CM Appls.11473-11474/2020 (exemption)

Allowed, subject to all just exceptions.

W.P. (C) 3271/2020

The writ petition filed under Article 226 of the Constitution has been listed before this Bench by the Registry in view of the urgency expressed therein.

The matter has been heard by way of video conferencing.

Present writ petition has been filed by the petitioner seeking a direction to respondents to disregard/exclude the days spent by the petitioner in India since 15th July, 2016 for the purposes of ascertaining the tax residency status under Section 6(1)(a) of the Income Tax Act, 1961 and for allowing the petitioner to file his income tax returns for the Financial Years 2018-19 and 2019-20 as an NRI.

Learned counsel for the petitioner states that the petitioner has been forced to stay in India due to confiscation of his passport initially by the CBI and later on due to its deposit with the trial court. He points out that the passport of the petitioner is still lying deposited with the trial court.

In the opinion of this Court, the issue whether the petitioner's presence in India was with his consent or against his Will is a question of fact which will have to be decided by the assessing officer.

Consequently, the present writ petition is disposed of with liberty to the parties to raise all their pleas before the statutory authority, who needless to say, shall decide the same in accordance with law.

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

MANMOHAN, J

SANJEEV NARULA, J

MAY 29, 2020

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