Ct. No. 26

7 akb

22.12 2020

W.P.A. 3342 of 2020

Dilip Doshi
-Versus-
Union of India & Ors.

Mr. Pranit Bag
Mr. Soumyadeep Biswas ...**For the Petitioner**

Mr. Smrajit Roychowdhury
Mr. A. Ganguly ...**For Respondents Income Tax Authority**

This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by an order passed under Section 144 read with Section 147 of the Income Tax Act, 1961 (hereinafter referred to as the said Act of 1961).

Mr. Pranit Bag, learned Counsel appearing on behalf of the petitioner submits that the respondents have not followed the procedure established by the Hon'ble Apex Court in the case of ***GKN Driveshafts (India) Ltd. Vs. Income Tax Officer & Ors,*** reported in **(2003) 1 SCC 72**.

I have heard learned Counsel appearing on behalf of the parties and perused the materials placed on record. Upon perusal of records it is clear that the procedure as established by the Hon'ble Apex Court has not been followed.

In the light of the same, the impugned order is set aside and the Authorities are directed to dispose of the objection raised by the petitioner before proceeding any further. Subsequent to disposal of the objection of the petitioner the Authority shall proceed in accordance with law.

I make it clear that I have not gone into the merits of the case with regard to issuance of the notice under Section 148 of the Income Tax Act, 1961.

The petitioner shall be at liberty to raise all points in its objection before the respondent Authority.

With the above observations, this writ petition is disposed.

Since, no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed to have not been admitted by the respondents.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties, on priority basis.

(Shekhar B. Saraf, J.)