WPO No. 266 of 2020

IA:GA 1/2020 (Old No.GA/1215/2020)

GA/2/2020 (Old No.GA/1216/2020)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

ORIGINAL SIDE

M/S. RAJADHIRAJ COMMOTRADE PVT. LTD.
Versus
THE INCOME TAX OFFICER, WARD-1(4), KOLKATA

BEFORE:

The Hon'ble JUSTICE RAJASEKHAR MANTHA

Date : 21st September, 2020

(Via Video Conference)

Ms. Kavita Jha, Adv.
Mr. Ganesh N. Jajodia, Adv.
Mr. Rohit Banerjee, Adv.
Ms. Satabdi Dutta, Adv.
... for Petitioner

Mr. S.N. Dutta, Adv.
Mr. Asoke Bhaumik, Adv.
... for Respondent

The Court : The writ petitioner is aggrieved by the order dated 19th December, 2019 issued by the Assessing Officer(IV), Aayakar Bhawan, Kolkata. The principal grievance is that the writ petitioner has been charged with nonfiling of Returns for A.Y. 2012-13. It is also alleged against the petitioner that no Return has been filed in respect of PAN AADCR 9208B.

The petitioner contends that they have nothing to do with this PAN number. The petitioner also submits that the postal address of the alleged assessee mentioned in the impugned order is not known to them. The petitioner also submits that, contrary to the views of the assessing officer they have already submitted returns for the assessment year 2012-13.

Per contra, counsel for the authorities submits that it is the petitioners themselves that have been using this allegedly unknown PAN number along with another PAN under the same identity and the order of the assessing authority was justified in law and in fact. There are other issues also raised by the petitioner that need not be gone into at this stage by this Court.

Since serious allegations have been made by the petitioner against the assessing officer that border on misconduct, this Court is of the view that the matter should be dealt with suitably by the statutory appellate authority under Section 246 of the Income Tax Act. Leave is therefore granted to the petitioner to file a statutory appeal under Section 246, within a period of 30(thirty) days from date. The impugned order shall remain stayed for a period of 30(thirty) days from date.

The appeal shall be accepted in physical form by the appellate authority and not by electronic means. The appellate authority, if necessary, shall take all steps to investigate into the contentions on behalf of the assessing officer that two PAN numbers are being used by the same petitioner illegally and dues to the extent of Rs.9 Crore have accumulated against them.

All issues are kept open to be agitated.

In view of the above, all GA applications are disposed of.

(RAJASEKHAR MANTHA, J.)

SN/SB.
AR(CR)