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WPA 10118 of 2021

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Bishnupur Public Education Institute & Anr.
Vs
Assistant Commissioner of Income Tax, Circle-1(1), Exempt, Kolkata & Ors.

Mr. J.P. Khaitan, ld. Sr. Adv.,
Mr. Malay Dhar,
Mr. Bhaskar Sengupta
... For the Petitioners.
Mr. P.K. Bhowmick,
Mr. S. Bhattacharjee
... For the Respondent.

Heard learned Advocates appearing for the parties.

The petitioner in this writ petition has challenged the impugned order dated 31st July, 2020 passed by the Commissioner of Income Tax (Exemptions), Kolkata/respondent No.2, rejecting the application of the petitioner dated 25th February, 2020, making prayer for condonation of delay in filing the return and other documents relating to Assessment Year 2016-2017, on one of the grounds, mainly that in the impugned order dated 31st July, 2020, it has been recorded that the petitioner was intimated by an order dated 3rd March, 2020 and further reminder by 18th May, 2020 about the discrepancies in the documents filed by the petitioner relating to the Assessment Year in question but the case of the petitioner is that neither such letter dated 3rd March, 2020, nor such reminder dated 18th May, 2020 was ever served upon the petitioner.

Mr. Bhowmick, learned Advocate appearing for the respondents on instructions submits that he is not in a position to deny the aforesaid allegation of non-service of the aforesaid letters upon the petitioner. Mr. Bhowmick very fairly submits on instructions that the impugned order may be set aside and the case may be remanded to the officer concerned for consideration afresh upon giving opportunity of hearing to the petitioner or its authorised representative.

Considering the submission of the parties, this writ petition is disposed of by setting aside the impugned order dated 31st July, 2020 with a direction upon the Commissioner of Income Tax (Exemptions), Kolkata/respondent No.2, to consider afresh the application of the petitioner dated 25th February, 2020 for condonation of delay in filing the return and other documents relating to Assessment Year 2016-2017 in accordance with law and by passing a reasoned and speaking order and after giving an opportunity of hearing to the petitioner or its authorised representative within eight weeks from the date of communication of this order and to communicate the decision to the petitioner within one week thereafter.

It is recorded that this Court has not gone into the merits of the case and the respondent No.2, shall consider the case of the petitioner on its own merits and strictly in accordance with law.

WPA 10118 of 2021 is disposed of.

(Md. Nizamuddin, J.)