S/L 6
09.11.2021
Court. No. 2
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WPA 12043 of 2021
Ghoramara Tea Estate & Enterprise Pvt. Ltd. & Anr.
Vs.
Union of India & Ors.
(Through Video Conference)

Mr. Abhratosh Mazumdar,
Mr. Arijit Chakrabarti,
Mr. Aasish Choudhury,
Ms. Anupa Banerjee,
Ms. Puja Tripathi,
Mr. Rabindra Kumar Mitra.
……for the petitioners.

Mr. S. Roy. Chowdhury
Mr. Soumen Bhattacharjee
.... For the Respondents.

Supplementary affidavit filed today be kept with the record.

Heard both the parties.

In this writ petition, the petitioners have challenged the impugned assessment orders dated 25th May, 2021 under Sections 153C read with Section 144 of the Income Tax Act, 1961 being Annexure P-8 to the writ petition on the ground that the aforesaid orders were passed without considering and disposing of the petitioners' objection/representation dated 23rd April, 2021 being Annexure P-9 to the Writ Petition against the recorded reasons for issuing notice under Section 153C of the Act and objection/representation dated 4th May, 2021 being Annexure-P-7 to the writ petition making prayer for furnishing copy of the satisfaction note for initiating proceedings under Section 153C of the Income Tax Act against the petitioners.

Learned Advocate appearing for the petitioners submits that the aforesaid impugned assessment orders dated 25th May, 2021 were passed in violation of principle of natural justice by not giving any hearing to the petitioners and not disposing of the aforesaid objections/representations before passing the aforesaid impugned assessment orders.

Learned Advocate appearing for the Income Tax Authorities when asked to produce the record or instructions as to whether the aforesaid two objections were considered and disposed of by the respondents concerned by giving opportunity of hearing to the petitioners before passing the aforesaid impugned assessment orders dated 25th May, 2021, he could not satisfy the court from record or from his submission that before passing the aforesaid impugned assessment orders, the aforesaid two representations/objections were considered and disposed of and petitioners were given opportunities of hearing on the aforesaid objections/representations.

Considering the submission of the parties and facts as appears on perusal of the records I am of the view that a very short issue, according to me, involved in these writ petition is as to whether before passing the aforesaid impugned assessment orders, the objections/representations made by the petitioners against the initiation of impugned proceedings under

Section 153C of the Income Tax Act, 1961 were considered or not and if not, then is it a violation of principle of natural justice? Since in this case it appears from record that the aforesaid representations/objections of the petitioners were not considered and disposed of before passing the aforesaid impugned assessment orders an no opportunity of hearing was given to the petitioners which is a clear violation of principle of natural justice, without going into the merits of the impugned assessment orders and the aforesaid objections/representations of the petitioners, on the ground of violation of principle of natural justice alone, I am setting aside the aforesaid impugned assessment orders dated 25th May, 2021 being Annexure P-8 to the writ petition and remanding the case of the petitioners to the respondents concerned to consider and dispose of the aforesaid two representations/objections dated 23rd April, 2021 and 5th May, 2021 made by the petitioners in accordance with law and by passing a reasoned and speaking order and after giving an opportunity of hearing to the petitioners or their authorised representative within four weeks from the date of communication of this order and further continuation of the assessment proceedings in question will depend upon the outcome of the final order to be passed upon the aforesaid objections/representations of the petitioners.

It is recorded that this court has set aside the aforesaid impugned assessment orders on limited ground of violation of principle of natural justice of not considering and disposing of the aforesaid representations/objections of the petitioners and this Court has not gone into the merits of the case. In this matter, the respondent Assessing Officer will proceed strictly in accordance with law while disposing of the aforesaid representations/objections of the petitioners.

With the above directions, this writ petition being W.P.A No. 12043 of 2021 is disposed of.

(Md. Nizamuddin, J.)