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WPA 16042 of 2021

Iris Commosale Private Limited
Vs
Union of India & Ors.

Mr. Abhrotosh Majumder, Ld. Sr. Adv.,
Mr. Avra Mazumder
... For the Petitioner.

Mr. Dhiraj Trivedi,
Mr. Madhu Jana
... For the Respondent/Revenue.

Heard learned Advocates appearing for the parties.

In this writ petition the petitioner has challenged the impugned assessment order dated 25th August, 2021, which was passed without providing effective opportunity of hearing to the petitioner under Section 143(3) read with Section 254 of the Income Tax Act, 1961. Though I am very reluctant to entertain any writ petition against the assessment order because of availability of alternative remedy by way of Appeal before the CIT (Appeals) under the Income Tax Act but in view of unusual exceptional circumstances in this case I am inclined to entertain this writ petition and interfere with the aforesaid impugned assessment order for the reasons, which appear from record that before passing the aforesaid impugned final assessment order, show-cause-notice dated 18th August, 2021 relating to assessment year 2011-2012 was issued to the petitioner, which contains the draft assessment order and on comparing the final assessment order with the draft assessment order, I find the impugned final assessment order is the copy paste of the draft assessment order and each and every words, sentence and paragraphs are tallying with each other. In addition to this fact additional ground taken by the learned Advocate for the petitioner is that against the show-cause-notice, the petitioner had prayed for adjournment by its letter dated 21st August, 2021 on the ground that official portal of the Department was not working and because of which it was not able to upload reply to the show-cause-notice along with relevant documents, which the assessee/petitioner was asked to file by 23rd August, 2021, and without considering the aforesaid judgment the impugned final assessment order was passed.

Mr. Trivedi, learned Advocate appearing for the respondent/Income Tax Department is not in a position to contradict these allegations, which are substantiated by record and in view of this admitted position it will be futile to call for affidavits since the Department would not be able to improve the case which appears from record.

Considering the submission of the parties and the records annexed to the writ petition, the impugned final assessment order dated 25th August, 2021 is set aside with the direction upon the respondent/Assessing Officer concerned to pass a fresh assessment order after allowing the petitioner to file objection to the draft assessment order and by giving effective opportunity of hearing to the petitioner or its authorised representative.

With these observations and directions, this writ petition, being WPA 16042 of 2021 is disposed of.

(Md. Nizamuddin, J.)