S/L 54
07.12.2021
Court. No. 2
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WPA 17501 of 2021
Ashok Thakur@ Ashok Kumar Thakur
Vs.
National Faceless Assessment Centre, Delhi & Ors.
(Through Video Conference)

Mr. Sanjay Bhowmick
Mr. S. Datta
Mr. Pinaki Brata Ghosh
... For the petitioner.
Mr. S. Roy Chowdhury
Mr. S. Bhattacharjee
... For the Respondents.

Affidavit of service filed in court today be kept with the record.

Heard the learned advocates appearing for the parties.

In this matter, petitioner has challenged the impugned order of penalty dated 27th August, 2021 passed under Section 271D of the Income Tax Act, 1961 on the ground of violation of principle of natural justice by not giving an opportunity of hearing to the petitioner by fixing the date of hearing and intimation of fixation of such date of hearing to the petitioner and formalities of Section 274 of the Act has not been complied with by the respondent assessing officer concerned before passing the impugned penalty order.

Mr. Chowdhury, learned advocate appearing for the respondents could not contradict this allegation of violation of principles of natural justice and provisions of law about the date of fixation of hearing and intimation of fixation of such hearing to the petitioner before passing the impugned penalty order, which is substantiated by record.

Considering these facts, I am of the view that impugned penalty order should be set aside on the ground of violation of principle of natural justice and non compliance of the mandatory condition under provision to Section 274 of the Income Tax Act, 1961.

Considering the submission of the parties, this writ petition, being WPA 17501 of 2021 is disposed of by setting aside the aforesaid impugned order dated 27^{th} August, 2021 passed under Section 271D of the Income Tax Act, 1961 with a direction upon the respondent concerned to pass a fresh speaking order in accordance with law after giving opportunity of hearing to the petitioner or his authorised representative.

It is recorded that this Court has not gone into the merits of the impugned penalty proceeding and it has been set aside solely on the ground of violation principle of natural justice and the respondents concerned shall consider the penalty proceeding strictly in accordance with law on its own merit.

(Md. Nizamuddin, J.)