20.12.2021.
p.b.
Sl. No.21.

W.P.A. 19456 of 2021

(Through Video Conference)

Jai Venktesh Concast Pvt. Ltd.
Vs.
National Faceless Assessment Centre & Ors.

Mr. Rahul Auddy,
Mr. Ved Jain.
........for the petitioner.

Mr. Smarajit Roy Chowdhury,
Mr. M. N. Bandopadhyay,
Mr. Soumen Bhattacharjee.
........for the respondents.

Heard learned advocates appearing for the parties.

In this writ petition, petitioner has challenged the impugned order of assessment dated 23rd April, 2021 under Section 143(3) of the Income Tax Act, 1961 being Annexure P-19 to the writ petition on the ground that the impugned final assessment has been passed in gross violation of principle of natural justice and particularly in violation of Section 144B(1)(xvi)(b) and 144B(7)(vii) of the writ petition by not providing draft assessment order to the petitioner for taking any exception or objection by the assessee/petitioner and also denying opportunity of personal hearing to the petitioner before passing the final assessment order. From the impugned order, nowhere it appears that the draft assessment was provided to the petitioner before passing the impugned final assessment order dated 23rd April, 2021. There is a specific pleading in paragraph 16 of the writ petition in this regard which has been affirmed on oath by the petitioner and also about violation of the relevant provisions of Section 144B of the Income Tax Act, 1961.

Mr. Roy Chowdhury, learned advocate appearing for the respondent income tax authority is not in a position to contradict the aforesaid allegation of violation of principle of natural justice and violation of Section 144B(1)(xvi)(b) and 144B(7)(vii) before passing the final assessment order and could not justify the aforesaid action of the respondents.

Considering the submission of the parties, I am of the view that keeping this writ petition pending will be of no use and in the interest of justice and in view of patent violation of principle of natural justice and violation of the relevant provisions of law as referred above, the impugned assessment order dated 23rd April, 2021 is set aside and all further action by the respondents on the basis of the aforesaid impugned assessment order are also set aside. This matter is remanded to the respondent Assessing Officer concerned to pass a fresh assessment order after compliance of the aforesaid provisions of Section 144B(1)(xvi)(b) and 144B(7)(vii) and by observing principles of natural justice.

With these observations and direction, this writ petition being WPA No.19456 of 2021 is disposed of.

(Md. Nizamuddin, J.)