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WPA 8576 of 2020

Navana Trading Company Private Limited & Anr.
Vs
Union of India through the Secretary, Ministry of Finance & Ors.

Mr. Tanoy Chakraborty,
Mr. Keshav Kumar Daruka
… For the Petitioners.

Mr. Dhiraj Trivedi,
Mr. Soumen Bhattacharyya
… For the Respondents.

Heard learned Advocates appearing for the parties.

This writ petition has been filed by the petitioners being aggrieved by the impugned show-cause-notice and the order passed under Section 139(9) of the Income Tax Act, 1961 rejecting the return of the petitioners for non-compliance of Section 44AB of the Income Tax Act by not getting its Account audited though gross receipt of income under the relevant year under the head “Profit and Gains” of business was more than Rs.1 crore. Petitioners submit that the impugned order of rejection of petitioners’ application under Section 139(9) is bad in law for the reason that the petitioners have complied the conditions under Section 44AB of the Income Tax Act, 1961, but because of the fault of the Chartered Accountant of the petitioners, the said fact of compliance of Section 44AB of the Income Tax Act was not brought to the notice of the Assessing Officer. Similar thing is happened in the writ petition also that the petitioners have not challenged the impugned order of rejection on the ground that the petitioners have already complied under Section 44AB of the Income Tax Act.

However, in the interest of justice and it is a pure question of law and for the fault of a Lawyer/Chartered Accountant, petitioners should not be made to suffer, I am inclined to grant relief in this writ petition by setting aside the impugned order dated 7th February, 2020 being Annexure P-6 to the writ petition by directing the Assessing Officer concerned to reconsider the matter and pass a reasoned and speaking order under Section 139(9) of the Act in accordance with law after giving an opportunity of hearing to the petitioners or its authorised representative within two months from the date of receipt of this order.

With this observation and direction, this writ petition, being WPA 8576 of 2020 is disposed of.

(Md. Nizamuddin, J.)