OD 8

WPO 117 of 2020
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

RAM AWADH HAZARILAL SHAW AND ANR.
VERSUS
INCOME TAX OFFICERS WARD NO. 37(3), KOLKATA AND ORS.

BEFORE:
The Hon'ble JUSTICE SHEKHAR B. SARAF
Date : 4th January, 2021.

APPEARANCE:
Mr. Anil Dugar,Adv.
Mr. Rajarshi Chatterjee,Adv.

Mr. S.N.Dutta,Adv.

The Court:-This is an application under Article 226 of the Constitution of India wherein the petitioner was aggrieved by an assessment order dated December 27, 2019 under Sections 144 read with Section 147 of the Income Tax Act, 1961. The case of the petitioner is that certain notices sent by the income tax department was never received by the petitioner and the final notice dated December 25, 2019 (that was not received by the petitioner) only gave two days' time to the petitioner to submit documents.

Counsel on behalf of the respondent submits that the initial notice under Section 148 was issued on May 23, 2018 and, subsequently, several notices have been issued to the petitioner.

Without going into the merits of the case, this writ petition may be disposed of by passing the following order:

a) The petitioner undertakes not to raise the point of limitation with regard to the subsequent order that would be passed in the event the impugned order is set aside with a direction to pass a fresh order;

b) The assessing officer is directed to grant an opportunity of hearing to the petitioner and thereafter pass an order within a period of six weeks from date. The petitioner is directed to submit a reply along with all his documents within two weeks from date. Upon receipt of the documents, notice of hearing shall be granted (at least three days' notice);

c) In light of the above, the impugned assessment order is quashed and set aside with a direction upon the authority to carry out a fresh assessment.

It is made clear that setting aside of the assessment order is subject to the condition that the petitioner shall not raise the point of limitation in any proceeding henceforth. In the event such a point is raised, the impugned assessment order shall revive.

(SHEKHAR B. SARAF,J.)

S.Chandra