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ORDER SHEET

WPO 184 of 2020

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

INDIA POWER CORPORATION LIMITED AND ANR
VS.
PR. COMMISSIONER OF INCOME TAX – I, KOLKATA AND ORS

BEFORE:
The Hon'ble JUSTICE ARINDAM MUKHERJEE
Date: 27th January, 2021.

Appearance:
Mr. Asim Choudhury, Adv.
Ms. Aesa Dey, Adv.
... for the petitioner

Mr. P.K. Bhoumick, Adv.
... for the respondents

The Court : The petitioner has challenged the order dated 31st December, 2019 pertaining to assessment year 2017-2018 before the Commissioner of Income Tax (Appeals) – I [in short CIT (Appeals) – I]. The petitioner also made an application under Section 220 (6) of the Income Tax Act, 1961 (hereinafter referred to as 'the said Act') for not being declared as an assessee in default. The said application under Section 220 (6) of the said Act was disposed of by an order dated 23rd January, 2020. Challenging the said order dated 23rd January, 2020, the petitioner filed an application for stay before the Principal Commissioner of Income Tax-I (in short PCIT – I) being the forum before which the stay application is required to be filed on dismissal of the application under Section 220 (6) of the said Act. During the pendency of the regular appeal before CIT (Appeals) and the stay application arising out of the order dated 23rd January, 2020, the petitioner filed a writ petition being WP 54 of 2020. In the said writ petition by an order dated 12th February, 2020 the Principal Commissioner of Income Tax (Appeals) to decide the stay petition within a period of three weeks from the date of the said order. A direction was also given to the Commissioner of Income Tax (Appeals) – I, Kolkata to decide the appeal as expeditiously possible preferably within three weeks. An order was also passed directing the Income Tax Department not to take any coercive steps in the meantime. The stay petition has been disposed of by the Principal Commissioner of Income Tax (Appeals) by an order dated 5th March, 2020. I am also told that the hearing of the appeal before the CIT (Appeals) was virtually towards the end. However, owing to the pandemic and a subsequent introduction of the "faceless appeal provision", the appeal pending before the CIT (Appeals) – I, Kolkata has not been disposed of yet.

In the instant writ petition, the petitioner has challenged the order dated 5th March, 2020 alleging that the same is without reason and does not take into account the relevant factors, but have taken into account irrelevant ones. This submission is denied by the respondents.

After hearing the parties and considering the materials on record, I think justice will be sub-served if the appeal is directed to be decided by 31st March, 2021. The concerned Appellate Authority now in seisin of the petitioner's appeal under the faceless appeal hearing scheme is directed to dispose of the appeal within 31st March, 2021. The Assessing Officer concerned is restrained from recovering the remaining demand over and above Rs.19 crore till the disposal of the appeal, i.e. 31st March, 2021. After passing of the order in appeal, the Assessing Officer shall be free to take such steps as permitted in law.

Nothing further remains to be adjudicated in this writ petition, the same is accordingly disposed of without any order as to costs.

Since I have not called for any affidavit, the allegations contained in the writ petition are deemed not to have been admitted by the respondents.

(ARINDAM MUKHERJEE, J.)

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