OD – 27

ORDER SHEET
WPO/926/2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

GOPAL KUMAR AGARWAL
VS
NATIONAL FACELESS ASSESSMENT CENTRE DELHI

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 01ST OCTOBER, 2021.

Appearance :
Mr. Smarajit Raychowdhury, Adv.
Mr. S. Bharracharjee, Adv.
...For the Respondent

The Court : In this writ petition, the petitioner has challenged the impugned assessment order dated 23rd April, 2021 being annexure- P1 to the writ petition relating to Assessment Year 2018-19 and subsequent notice of demand and penalty notices on the ground of gross violation of principles of natural justice by not affording any effective opportunity of hearing before passing the impugned assessment orders and subsequent orders. This allegation of violation of principles of natural justice is established from the fact as appears from record annexed to this writ petition.

On 21st April, 2021 respondent has issued a show cause notice to the petitioner against the draft assessment order in question which appears to have been issued on 21st April, 2021 at 18:40 hours and the same was delivered to the petitioner on 21st April, 2021 at 19:39

hours and the petitioner was asked to give reply to the said show cause notice dated 21st April, 2021 by 22nd April, 2021 at 23:59 hours that is within a day and the petitioner made a prayer for adjournment as appears at page 66 of the writ petition which was not considered and the impugned assessment order was passed on 23rd April, 2021. This fact has been pleaded in the writ petition in paragraph 2.10 of the writ petition.

Mr. Chowdhury, learned Advocate appearing for the respondent /Income Tax Authority could not justify and satisfy this Court of such action on the part of the respondent in violation of the principles of natural justice by not allowing the petitioner effective opportunity of hearing by granting adjournment and providing sufficient time to reply to the impugned show cause notice. The principles of natural justice has to be observed by the respondent statutory authority which is a bounden duty and has to be observed by every quasi judicial authority which has flagrantly violated in this case. Opportunity of hearing means effective opportunity of hearing and not a symbolic one and opportunity of hearing is the part and parcel of natural justice.

Considering the submissions of the parties and facts as appears from record, I am of the considered opinion that the impugned assessment order has been passed in gross violation of principles of natural justice and is not sustainable in law and accordingly, the impugned assessment order dated 23rd April, 2021 is set aside and all subsequent actions and notice on the basis of the aforesaid impugned orders are also set aside.

Setting aside of the impugned assessment order will not prevent the respondent/Assessing Officer to proceed with the assessment in question in accordance with law and by observing principles of natural justice.

This writ petition has been allowed solely on the ground of principles of natural justice and this court has not gone into the merit of the case.

This writ petition being WP No.926 of 2021 is accordingly disposed of.

(MD. NIZAMUDDIN, J.)

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