ORDER SHEET

OD-1

W.P.O. No.1072 of 2021
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

POONAWALLA FINCORP LIMITED (FORMERLY KNOWN AS MAGMA FINCORP LTD.)
Versus
ASSISTANT COMMISSIONER OF INCOME TAX, 1(2)(2), NATIONAL FACELESS ASSESSMENT CENTRE DELHI & ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 22nd November, 2021.

APPEARANCE:
J.P.Khaitan, Sr.Adv.
Mr.Akhilesh Gupta, Adv.
Mr. Pranav Sharma, Adv.
...for petitioner

Mr.Smarajit Roy Chowdhury, Adv.
Mr.Soumen Bhattacharjee, Adv.
...for respondents

The Court: Heard learned advocates appearing for the parties.

This writ petition was moved on 8th October, 2021 challenging the impugned assessment order dated 30th September, 2021 on the ground that before passing the impugned assessment order no opportunity of personal hearing was afforded to the petitioner in spite of request and further on the ground that no reply to the show cause notice which was issued before passing the assessment order, was given by the petitioner as recorded by the Assessing Officer in its impugned assessment order while it is on record that reply to the show cause notice in question was given by the petitioner.

Mr. Chowdhury, learned advocate appearing for the respondents-Income Tax Authority could not defend and contradict the aforesaid allegations of the petitioner.

In such circumstances, it is presumed that the respondents-Income Tax Authority has conceded. In my view calling for any affidavit will be a futile exercise in such circumstances as because the allegations of the petitioner is substantiated by record which could not be improved by the department.

Considering these facts the writ petition being WPO No.1072 of 2021 is disposed of by setting aside the impugned assessment order dated 30th September, 2021 with a direction upon the respondent Assessing Officer concerned to pass a fresh assessment order in accordance with law and by affording a reasonable opportunity of hearing to the petitioner.

It is recorded that this Court has set aside the aforesaid impugned assessment order only on the aforesaid two grounds and it has not gone into the merit of assessment.

In the first and second pages of my order dated 8th October, 2021, due to inadvertence the date of the assessment order has been recorded as '30th September, 2019' instead of '30th September, 2021'. Let that be corrected accordingly.

(MD. NIZAMUDDIN, J.)

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