07-03-2022
Item No.22
Subrata

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.3252 of 2022
Ashok Kumar Mundhra
-vs-
Income Tax Officer, ward 43(1), Kolkata & Ors.

Mr. Anil Kumar Dugar
Mr. Rajarshi Chatterjee
Mr. Govind Jethalia ...for the petitioner

Heard learned advocate appearing for the petitioner.

In this writ petition, petitioner has challenged the impugned notice under section 148 of the Income Tax Act, 1961 dated March 31, 2021 relating to assessment year 2014-15 without filing any objection to the same as per law settled by the Supreme Court in the case of GKN Driveshafts (India) Limited v. ITO & Ors. reported in 259 ITR 19 according to which after receipt of the notice under section 148 of the Act, an assessee is entitled to make objection to the same and the assessing officer concerned, without disposing of the same, cannot proceed and it clearly protects the interest of the assessee till such objection is disposed of.

Learned advocate for the petitioner submits that in this case question of jurisdiction of the assessing officer who has issued the aforesaid notice is also involved and this writ court should entertain the writ petition. In support of his contention, learned advocate for the petitioner has relied upon a decision of the Supreme Court in the case of *Kolhapur Canesugar Works Ltd. & Anr. v. Union of India & Ors.* reported in (2000) 2 SCC 536 : 2000 SCC OnLine 300, particularly para.37 of the same.

Considering the submission of the petitioner, this writ petition being **WPA No.3252 of 2022 is disposed of** by giving liberty to the petitioner to make an objection to the aforesaid impugned notice dated March 31, 2021 under section 148 of the Income Tax Act, 1961 within two weeks from date; and if such objection is made within the time stipulated herein, respondent-assessing officer concerned shall consider such objection in the light of the judgement of the Supreme Court which petitioner wants to rely, in accordance with law and by passing a reasoned and speaking order, after giving opportunity of hearing to the petitioner or his authorised representative.

[Md. Nizamuddin, J]