07.03.2022.
p.b.
Sl. No.24.

W.P.A. 3288 of 2022

Bahin Samabay Krishi Unnayan
Samity Ltd. & Anr.
Vs.
The Union of India & Ors.

Mr. Himangshu Kumar Ray.
.........for the petitioners.
Mr. Debasish Chaudhuri.
...........for the respondents.

Heard learned advocates appearing for the parties.

In this matter, petitioner has challenged the impugned order dated 27th September, 2021 under Section 147 read with Section 144 of the Income Tax Act, 1961 relating to Assessment Year 2013-2014 which is an appeallable order under Section 246A of the Income Tax Act, 1961.

On perusal of the grounds taken in the writ petition, I find that actually petitioner wants to challenge the impugned assessment order on merit by alleging that the demand raised is a high pitch demand and the computation sheet dated 27th September, 2021 are illegal and are in violation of notification of the board dated 31st March, 2021. Petitioner could not satisfy this Court when the query was made that is there any statutory bar under Section 246A of the Income Tax in filing appeal against the impugned assessment order under Section 147 read with Section 144 of the Act. On the face of the grounds itself taken in the writ petition it appears to me that petitioner wants this Court to interfere with the impugned assessment order actually on merit by avoiding the remedy of statutory appeal available to him before the CIT appeal under the statute. Petitioner in support of his contention relies on a decision of the Delhi High Court in the case of Gurgaon Realtech Ltd. Vs. National Faceless Assessment Centre Delhi reported in (2021) 127 taxmann.com 726 (Delhi). On the proposition that the impugned assessment order is without jurisdiction and on perusal of the aforesaid decision, I find that in the said case subject matter of challenge in the said writ petition was assessment order passed under Section 143(3) which Section 143(3A) and 143(3B) of the Act and not under Section 147 read with Section 144 of the Act.

Considering the submission of the parties, I am not inclined to entertain this writ petition on the ground of availability of alternative remedy by way of statutory appeal and for the reason that the remedy petitioner wants in this writ petition if granted would amount to interference with the impugned assessment order on merit for which this is not the appropriate forum and all the issues raised in the writ petition can be adjudicated by the appellate authority since there is no statutory bar in raising the grounds of challenge made out for interfering with the impugned assessment order in this writ petition.

With this observation, this writ petition being W.P.A. No.3288 of 2022 stands dismissed.

(Md. Nizamuddin, J.)