29-04-2022
Item No.24
Subrata

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.7457 of 2022
Gita Roy
-vs-
Union of India & Ors.

Mr. Suthirtha Das ...for the petitioner

Ms. Smita Das De ...for the respondents

Heard learned advocates appearing for the respective parties.

Petitioner in this writ petition has challenged the impugned order dated March 29, 2022 under section 148A(d) of the Income Tax Act, 1961 (Annexure P5/p.22) on the ground of violation of principles of natural justice by not giving her an opportunity of hearing and to file response/reply to the department's notice dated March 16, 2022 under section 148A of the Act by which she was asked to response to the said notice on or before March 21, 2022.

Petitioner submits that she had prayed for adjournment which was not denied by any specific order; and that in response to the aforesaid notice dated March 16, 2022, she had filed a response/objection by e-filing through the official portal of the department on March 28, 2022 while the impugned order was passed on March 29, 2022. It is further submitted that at least before passing the impugned order dated March 29, 2022, the aforesaid response/objection was already received by the department on March 28, 2022 the same should have been considered by the assessing officer concerned. More so, when it has not denied the adjournment on the petitioner's petition by specific order though she has not filed the response within the time stipulated but at least one day before passing the impugned order she has been able to file and in view of this fact and in the interest of justice, petitioner prays that her aforesaid response dated March 28, 2022 should be considered by the assessing officer concerned.

Considering the submission of the parties, I am not inclined to interfere with the impugned order dated March 29, 2022. However, the assessing officer concerned is directed to consider the petitioner's aforesaid objection/response dated March 28, 2022; and if he is satisfied with the same that the petitioner has been able to make out a case, in that event the assessing officer may reconsider and modify his order dated March 29, 2022.

With these observations and directions, WPA No.7457 of 2022 is disposed of.

[Md. Nizamuddin, J]