10-05-2022
Item No.40
Subrata

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.7593 of 2022
Ashok Kumar Damani
-vs-
Union of India & Ors.

Mr. Abhrotosh Majumder, sr. adv.
Mr. Avra Mazumder, adv.
Sk. Md. Bilwal Hossain, adv.
Mr. Kausheyo Roy, adv.
Mr. Binayak Gupta, adv. ...for the petitioner

Mr. Aryak Dutt, adv. ...for the Union of India

Heard learned advocates appearing for the respective parties.

Petitioner in this writ petition has challenged the impugned order dated March 31, 2022 (Annexure P6/p.93) passed under clause (d) of section 148A of the Income Tax Act, 1961, particularly being aggrieved by the last paragraph of the aforesaid impugned order which is quoted below:–

> "However, in so far second part of the information is concerned, the assessee is denying to have made any transactions to the tune of Rs.7,88,73,000/- during the FY - 2014-15. According to the assessee there is no transaction in the books of the assessee. This fact is not verifiable. Therefore, contention of the assessee is not accepted. In the light of the above facts and on the basis of material available on record, it is deemed that the case of ASHOKE KUMAR DAMANI PAN: ACXPD6089R is a fit case for issuance of notice u/s 148 of the Act for A.Y. 2015-16. This order is passed with the prior approval of the Principal Chief Commissioner of Income Tax, West Bengal & Sikkim, which was granted vide Reference No.-100000029533991 dated 17/03/2022."

Considering the contention of the petitioner that the alleged transaction relating to the FY 2014-15, as referred to in the aforesaid last paragraph of the impugned order, never took place and in view of the fact that the assessing officer concerned himself has not been able to verify the aforesaid transaction from any relevant documents, the matter is remanded back to the assessing officer concerned for a limited purpose of reconsidering the aforesaid transaction of Rs.7,88,73,000/- by giving an opportunity of hearing to the petitioner and to produce the relevant records; and after considering the relevant records to be produced by the petitioner before the assessing officer concerned in support of his case, the assessing officer shall take a decision on the same before proceeding with any further assessment proceeding, within eight weeks from the date of communication of this order.

Needless to mention that the assessing officer, while considering the aforesaid limited issue, will observe the principles of natural justice.

With the above observations and directions, WPA No.7593 of 2022 stands disposed of.

[Md. Nizamuddin, J]