24.03.2022.
p.b.
Sl. No.2.

W.P.A. 9865 of 2021

Subhatosh Majumdar
Vs.
Union of India & Ors.

Mr. Abhratosh Majumdar,
Mr. Paritosh Sinha,
Mr. Avra Mazumdar,
Mr. Amitava Mitra,
Ms. Mitul Dasgupta,
Ms. Antara Chowdhury.
……..for the petitioner.
Mr. Smita Das De.
………for the UOI.

Heard learned advocates appearing for the parties.

In this writ petition, petitioner has challenged the impugned assessment order dated 26th March, 2021 under Sections 143(3)/143(3A) & 143(3B) of the Income Tax Act, 1961 relating to Assessment Year 2018-19, on the ground of violation of principle of natural justice and that the impugned assessment order is non-speaking order. On perusal of the document annexed to the writ petition, it appears that on 12th February, 2021 a show-cause notice was issued to the petitioner as to why the assessment would not be completed as per the draft assessment order and in response to that, petitioner had filed the reply on 27th February, 2021 by making objection to the draft assessment and proposed for modification and also made prayer before the assessing officer concerned that if the assessing officer is not agreeable to propose modification of the draft assessment, opportunity of personal hearing should be given to the petitioner to make proper submission. It is the grievance of the petitioner that the respondent assessing officer concerned has not accepted the modification proposed by the petitioner and pass the impugned assessment order without affording any opportunity of personal hearing.

Learned advocate appearing for the respondents was given opportunity to produce the records/documents to show that any opportunity of personal hearing was given to the petitioner which the respondents failed. On perusal of the impugned assessment order, I find the same is non-speaking also. Though this Court is very reluctant to entertain any writ petition against any assessment order which is an appeallable order, but in view of patent violation of principles natural justice and assessment order being non-speaking, I am inclined to entertain this writ petition.

Considering the submission of the parties, this writ petition being WPA No.9865 of 2021 is disposed of by setting aside the aforesaid impugned assessment order dated 26th March, 2021 with the direction upon the respondents/assessing officer concerned to pass the assessment order afresh in accordance with law after giving an opportunity of personal hearing to the petitioner within 12 weeks from the date of communication of this order. The formalities to be adopted by the petitioner for availing of opportunity of personal hearing shall be intimated by the assessing officer concerned to the petitioner.

With this observation and direction, this writ petition being WPA No.9865 of 2021 stands disposed of.

(Md. Nizamuddin, J.)