19-05-2022
Item No.14
Subrata

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.8435 of 2022
Mahadev Paper Corporation
-vs-
Union of India & Ors.

Mr. Ranjeet Kumar Murarka, sr. adv.
Mr. Vivek Murarka, adv.
Mr. Dibanath Dey, adv. …for the petitioner

Mr. Soumen Bhattacharya, adv. …for the respondents

Heard learned advocates appearing for the parties.

Petitioner in this writ petition has challenged the impugned order dated March 31, 2022 passed under section 148A(d) of the Income Tax Act, 1961 relating to assessment year 2018-19 on the grounds of violation of principle of natural justice and non-application of mind on the part of the assessing officer concerned in recording that no objection was filed by the petitioner against the show-cause notice dated March 17, 2022 on or before March 25, 2022, while it appears from record, particularly from a screenshot of the official portal of the department that the assessee-petitioner had filed the objection dated March 22, 2022 against the aforesaid show-cause notice dated March 17, 2022 as appears from page 69 of the writ petition.

Mr Bhattacharjee appearing for the respondents is not able to contradict the above facts.

Considering the submission of the parties and facts as appear from record, I am of the view that the impugned order dated March 31, 2022, which has been passed without considering the aforesaid objection of the petitioner and by recording that no objection was filed, is in violation of the principle of natural justice and in total non-application of mind on the part of the assessing officer concerned.

Accordingly, the impugned order dated March 31, 2022 under section 148A(d) of the Income Tax Act, 1961 Act and subsequent notice under section 148 of the Act both are set aside with a direction upon the assessing officer concerned to pass a fresh order after considering the aforesaid objection dated March 22, 2022 (p.69), in accordance with law, by giving the petitioner or its authorised representative an opportunity of hearing, within eight weeks from the date of communication of this order.

With the above observations and directions, WPA No.8435 of 2022 stands disposed of.

[Md. Nizamuddin, J]