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WPA 8893 of 2022

Arun Kumar Khetawat
Vs
Assistant Commissioner of Income Tax, Circle-43, Kolkata & Ors.

Mr. Rajarshi Chatterjee,
Mr. Rajkumar Banerjee
... For the Petitioner.
Mr. Sumon Bhattacharji
... For the Respondents.

Heard learned Advocates appearing for the parties.

In this writ petition, petitioner has challenged the impugned order dated 24th March, 2022 under Section 148A(d) of the Income Tax Act, 1961 relating to assessment year 2018-2019 on the ground of violation of principle of natural justice and in violation of the provision of Section 148A(b) of the Act by providing less than seven days time to give response to the impugned notice under Section 148A(b) of the Act and by not considering the adjournment petition dated 23rd March, 2022. It appears from record annexed to the writ petition that time to file response to the notice under Section 148A(b) which was issued on 17th March, 2022, and time to file response was given till 23rd March, 2022 which is not a clear seven days as per provision of Section 148A(b) of the Act and further it appears from page 18 of the writ petition that a prayer for adjournment was made on 23rd March, 2022 for giving response to the aforesaid notice but the same was neither considered nor rejected and the impugned order has been passed.

Mr. Bhattacharji, learned Advocate appearing for the respondents opposing the writ petition could not contradict the aforesaid facts as appears from record.

Considering the submission of the parties, the impugned order dated 24th March, 2022 under Section 148A(d) of the Act and subsequent notice under Section 148 of the Act dated 29th March, 2022 are set aside and the matter is remanded back to the Assessing Officer concerned to pass a fresh order under Section 148A(d) of the Act and the petitioner is given liberty to file response to the notice in question under Section 148A(b) of the Act by 17th June, 2022 and if such response is filed by the petitioner, the same shall be considered by the respondents and fresh order will be passed in accordance with law and by observing the principle of natural justice. In case of default by the petitioner in giving such response within the time stipulated herein, the impugned order under Section 148A(d) and notice under Section 148 of the Act will stand revived.

With these directions and observations, this writ petition being WPA 8893 of 2022 is disposed of.

(Md. Nizamuddin, J.)