12.07.2022.
p.b.
Sl. No.29.

W.P.A. 12201 of 2021

Nita Roy
Vs.
Union of India & Ors.

Mr. R. N. Dutt,
Ms. Sutapa Roy Choudhury,
Mr. Abhijat Das,
Ms. Aratrika Roy.
........for the petitioner.
Ms. Smita Das De.
.........for the respondent.
Mr. Pramod Kr. Drolia.
.........for the UOI.

Heard learned advocates appearing for the parties.

This writ petition has been filed by the petitioner being aggrieved by the impugned assessment order dated 15th April, 2021 relating to the assessment year 2017-18, mainly on the ground that the same has been passed in violation of principle of natural justice by depriving her right to participate in the proceeding by receiving notices from time to time. It is a matter of record that the respondent income tax authority could not establish or substantiate from record that before passing the impugned assessment order either petitioner or her chartered accountant/authorized representatives was served any notice under Section 143(2) of the Income Tax Act, 1961 dated 7th January, 2020 or notice under Section 142(1) purported to be issued on 9th February, 2021 or any showcause notice purported to be issued on 24th February, 2021.

Ms. Das De, learned advocate appearing on behalf of the respondent authority submits that due to some technical fault in the portal of the department, all these notices were issued in a different e-mail address. Facts remain that before passing the impugned assessment order dated 15th April, 2021 no notices as referred hereinabove were received by the petitioner or its authorized representative in their official e-mail address and as a result, petitioner was deprived of her right to participate in the impugned assessment proceeding and there was violation of principle of natural justice in the matter.

Considering the submissions of the parties and facts as appear from record, I am of the considered view that the interest of justice will be sub-served if the impugned assessment order dated 15th April, 2021 and subsequent penalty proceeding are set aside and the matter is remanded back to the assessing officer concerned to pass a fresh assessment order in accordance with law and by complying with the formalities required to be observed before passing the final assessment order. All notices required to be served under the law shall be served upon the chartered accountant of the petitioner's at his official registered e-mail address. No unnecessary adjournment should be granted to the petitioner and assessment order should be completed expeditiously.

With this observation and direction, this writ petition being WPA No.12201 of 2021 stands disposed of.

(Md. Nizamuddin, J.)