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January 10, 2022

In the High Court at Calcutta
Constitutional Writ Jurisdiction
(Via Video Conference)

WPA No.20126 of 2021

Raunak Kumar Jindal
Versus
The Union of India & Ors.

Mr. Pradip Mukherjee,
Mr. Arijit Ghosh.
...for the petitioner.

Mr. S.N. Datta.
...for the respondents.

In this writ petition, petitioner has challenged the impugned assessment order dated 30th September, 2021 under Section 147 read with Section 144B of the Income Tax Act, 1961 on the alleged ground of violation of principles of natural justice.

On perusal of the relevant records annexed to the writ petition, I am of the view that the impugned assessment order which is appellable before the CIT (Appeals) has been passed after issuing show cause notice on 28th September, 2021 being annexure P/8 to the writ petition and it appears from record that the petitioner has given an elaborate reply to the aforesaid show-cause notice on 29th September, 2021 being annexure P/9 to the writ petition and the impugned assessment order has been passed after considering the aforesaid reply to the show cause notice. This is not those type of exceptional cases for invoking the constitutional writ jurisdiction of this Court under Article 226 of the Constitution of India where the impugned assessment order is either without jurisdiction or is in gross violation of principles of natural justice or constitutional validity of a provision is involved.

In this writ petition, it appears from record that the petitioner in his reply to the show cause notice has discussed his case on merits in detail and if after considering the aforesaid objection on merits the respondents/assessing officer takes a view to which petitioner is not agreeable, it cannot be called without jurisdiction or gross violation of principles of natural justice and invoking constitutional writ jurisdiction by avoiding the statutory appellate forum.

In view of the discussion made above, this writ petition being WPA 20126 of 2021 is dismissed.

It is recorded that this Court has not gone into the merit of the assessment order and petitioner is entitled to agitate all the points on merit before the appellate forum, if he avails.

(Md. Nizamuddin, J.)