28.11.2022.
p.b.
Sl. No.15.

WPA 22936 of 2022

Glorious Vincom Pvt. Ltd.
Vs.
Union of India & Ors.

Mr. Avra Mazumder,
Mr. Binayak Gupta.
........for the petitioner.

Mr. Tilak Mitra.
........for the respondent.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order under Section 147 read with Section 144B of the Income Tax Act, 1961 dated 29th March, 2022 relating to assessment year 2015-16 that the same has been passed without considering and disposing the objection of the petitioner dated 25th March, 2022 filed after receiving the recorded reason furnished by the Assessing Officer concerned. Petitioner submits that the aforesaid impugned order and subsequent order and proceedings are bad in law in view of the law laid down by the Hon'ble Supreme Court in the case of GKN Driveshafts (India) and petitioner also relies on a reported judgment of this Court in the case of Saroj Jalan Vs. Union of India reported in (2022) 143 taxmann.com 33 (Calcutta). On perusal of the aforesaid impugned order, I find that the allegation of the petitioner is substantially correct in the sense that petitioner's objection to initiation of proceeding under Section 147 and issuance of notice under Section 148 of the Act has neither been considered nor rejected.

Considering the facts and circumstances of this case and submission of the parties, I am inclined to set aside the aforesaid impugned order under Section 147 read with Section 144B of the Income Tax Act, 1961 and subsequent proceedings thereafter and the matter is remanded back to the Assessing Officer concerned to pass a fresh speaking order in accordance with law after giving an opportunity of hearing to the petitioner or his authorized representatives within 8 weeks from the date of communication of this order. Any subsequent proceeding in the matter will depend upon the final outcome of the order to be passed on the aforesaid objection of the petitioner against the notice under Section 148 of the Act.

With this observation and direction, this writ petition being WPA 22936 of 2022 stands disposed of.

(Md. Nizamuddin, J.)