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WPA 23327 of 2022

Green Valliey Industries Ltd.
Vs
Assessment Unit, Income Tax Dept & Ors.

Mr.Abhrotosh Majumder, Ld. Sr. Adv.,
Mr. Avra Mazumder,
Ms. Megha Agarwal,
Mr. Binayak Gupta,
Mr. K. Roy
... For the Petitioner.
Mrs. Smita Das De
... For the Respondents.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the order dated 28th September, 2022 under Section 143(3) read with Section 144B of the Income Tax Act, 1961 on the ground that no sufficient opportunity of hearing was given and on the ground that in the assessment order on some other issues also order has been passed, which was not indicated in the impugned show-cause-notice.

I have considered the submission of the parties and perused the relevant record including the impugned assessment order under Section 143(3) of the Act which comprises of 55 pages and I am not inclined to entertained this writ petition for the following reasons:

i) This case does not fall within those categories of cases where the impugned proceedings initiated and the notices issued from time to time by the Authority having inherent lack of jurisdiction;

ii) It is not a case as appears from record where there is a patent violation of principle of natural justice;

iii) It is not a case of the petitioner that the impugned assessment order was passed without giving opportunity of hearing to the petitioner rather it is the case of the petitioner that no sufficient opportunity of hearing was given to the petitioner. It is difficult to define that what would be sufficient opportunity for the petitioner by which he will be satisfied. Had it been a case that no opportunity of hearing at all was given to the petitioner, the matter would have been different.

iv) The impugned assessment order is a very elaborate and detailed order was passed based on material evidence and this writ court in exercise of Constitutional writ jurisdiction cannot re-appreciate those material pieces of evidence and substitute the findings of the Assessing Officer;

v) In this writ petition there is no involvement of Constitutional validity of any provisions of any Act.

vi) It is also not a case where the issues and grounds raised by the petitioner in this writ petition cannot be adjudicated or decided by the Appellate Authority or there is a specific bar in adjudication of those issues for adjudication by the Appellate Authority;

vii) The impugned order is an appealable order under the statute and though alternative remedy although is not always a bar for entertaining a writ petition but at the same time petitioner will have to establish that the said alternative remedy available under the statute is not speedy and efficacious which it has failed.

In view of the discussion made above, I am not inclined to entertain this writ petition and, accordingly this writ petition being WPA 23327 of 2022 is dismissed.

However, dismissal of this writ petition will not be a bar for the petitioner to raise all the issues raised in this writ petition before Appellate Authority.

(Md. Nizamuddin, J.)