WPA 27499 OF 2022

15.12.2022
Sl no. 23
Ct no. 2
P.M.

Manish Dhawan
- Vs -
Assistant Commissioner of Income Tax, Circle 1(2) & Ors.

Mr. J. P. Khaitan, Sr. Adv.
Mr. Pratyush Jhunjhunwala,
Mr. Indranil Banerjee,
Mr. Mrigank Kejriwal
... for the petitioner

Ms. Smita Das De
... for the respondent.

Heard Mr. Khaitan, learned senior Counsel representing the petitioner and Ms. Smita Das De, learned advocate representing the respondent Income Tax authority.

By this writ petition petitioner has challenged the impugned order of assessment dated 23rd May, 2022, under Section 147/144 read with Section 144C of the Income Tax Act, 1961, on the ground of violation of principle of natural justice being deprived of any opportunity of hearing in course of the impugned re-assessment proceeding and passing of the aforesaid impugned reassessment order.

Petitioner submits that he is a non-resident Indian and resides in Singapore and he engaged the Chartered Accountant named Sandip Kumar Goyel who due to inadvertence and genuine human error failed to check his e-mail account which was the official address recorded in the office of the Income Tax authority concerned for the purpose of communication and notices to the petitioner.

The said Chartered Accountant has affirmed an affidavit in this regard being annexure P/7 to the writ petition.

There is a pleading in paragraph 7 of the writ petition also in this regard explaining the whole affair as to why and how the petitioner could not get any notice during the impugned proceedings.

Petitioner in support of his contention relies on a judgement of this Court in the case of Biki Overseas (P) Ltd. vs. Union of India reported in (2022) 141 Taxmann.com 20 (Calcutta). Though the impugned assessment order is appellable order but in view of the exceptional circumstances as referred above and considering the principle of natural justice and in the interest of justice I am entertaining this writ petition and ordering to the extent that the aforesaid impugned reassessment order dated 23rd May, 2022 be treated as draft assessment order and petitioner shall give reply/objection to the same within two weeks from date and on receipt of such reply/objection the Assessing Officer concerned shall pass a final assessment order within eight weeks thereof.

Needless to mention that before passing the fresh final assessment order opportunity of hearing shall be given to the petitioner or his authorized representatives.

This order is subject to condition of making deposit of 20% of the tax arising out of the aforesaid impugned assessment order (draft assessment order) within a week from date.

In case of non-compliance of any of the conditions of this order by the petitioner this order will not have any force.

With this observation and direction this writ petition being WPA 27499 of 2022 stands disposed of.

(Md. Nizamuddin, J.)