

ORDER SHEET
WPO/2107/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SAURABH MUNKA
VS
UNION OF INDIA AND ORS.

BEFORE:

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date : 17th May, 2022.

Appearance:
Mr. Arun Kumar Upadhyay, Adv.
Mrs. Shobha Upadhyay, Adv.
...For the Petitioner

Mr. Smarajit Roy Chowdhury, Adv.
Mr. Soumen Bhattacharjee, Adv.
...For the respondents

The Court : Heard learned advocates appearing for the parties.

In this matter, petitioner has challenged the impugned assessment order relating to assessment year 2015-16 dated 31st March, 2022 at 21:30 hours, on the ground of violation of principle of natural justice by not affording effective opportunity of hearing to the petitioner to give reply to the show cause notice/draft assessment dated 30th March, 2022 which was received by the petitioner on 31st March, 2022 at 23:00 hours as appears at page 50 of the writ petition which was less than 24 hours from the date of receipt of the show cause notice. Opportunity of hearing means always effective opportunity of hearing and it should not be a mere idle formality.

Considering the facts and circumstances of the case, I am of the view that in this case it appears from record that no effective opportunity of hearing was given to the petitioner and the impugned

assessment order passed by the petitioner is in violation of principles of natural justice.

Considering the submissions of the parties, this writ petition, being WPO 2107 of 2022 is disposed of by setting aside the impugned assessment order dated 31st March, 2022 being annexure P-6 to the writ petition and the case is remanded back to the assessing officer to pass a fresh assessment order in accordance with law and after giving opportunity to petitioner to give reply to the show cause notice dated 30th March, 2022 being annexure P-5 to the writ petition and also by giving an opportunity of hearing. Reply to the aforesaid show cause notice shall be filed by the petitioner within seven days from date and if such reply is filed by the petitioner within the time stipulated herein, the same shall be considered by the assessing officer concerned in accordance with law.

With these observations and directions, this writ petition stands disposed of.

(MD. NIZAMUDDIN, J.)

