OD – 8

ORDER SHEET
WPO/2229/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SUPER IRON FOUNDRY PVT LTD.
VS
INCOME TAX OFFICER, WARD 3(1) KOLKATA AND ORS

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 21ST JUNE, 2022.

APPEARANCE:
Mr. Anil Kumar Dugar, Adv.
Mr. Rajarshi Chatterjee, Adv.
...for the petitioner

Mrs. Smita Das De, Adv.
..for the respondent

The Court : Heard learned Advocate appearing for the parties.

Being aggrieved by the impugned order dated 19th April, 2022 passed under Section 148A(d) of the Income Tax Act, 1961 relating to the assessment year 2018-2019, this writ petition has been filed on the ground of violation of principles of natural justice. It appears from record that on 12th April, 2022 a notice under Section 148A(b) of the Act was issued by which the petitioner was asked to file its reply/response to the same on or before 20th April, 2022 in official portal of the Department as appears at page 36 being Annexure P5 to the writ petition. It appears from page 39 being Annexure P6 to the writ petition that in compliance of the aforesaid notice dated 12th April, 2022, within the stipulated time, that is, on 20th April, 2022 the petitioner filed its response/objection to the aforesaid notice under Section 148A(b) of the Act. It appears from record that before the date and time granting by the Assessing Officer to file reply to the notice under Section 148A(b) of the Act which was granted by him till 20th April, 2022, on 19th April, 2022 that is, one day before the last date of time for filing response which was granted by the Assessing Officer, he has passed the impugned order on some extraneous consideration that since petitioner has not complied with such notices earlier he has passed the impugned order.

Mrs. Das De, learned Advocate appearing for the respondents/Income Tax Authorities has no answer to the query of this Court as to how and why the Assessing Officer has passed the impugned order on 19th April, 2022 under Section 148A(d) of the Act when he himself had granted time to the petitioner to file its objection or response to the notice under Section 148A(b) of the Act by 20th April, 2022.

Considering the submission of the parties and facts which appears from record, I am of the view that the impugned order is not sustainable in law and is in patent violation of principles of natural justice by depriving the petitioner its right to file objection/response to the notice under Section 148A(b) of the Act and passing the impugned order before the expiry of the time granted by him to file such objection.

Accordingly, the impugned order dated 19th April, 2022 is set aside and the matter is remanded back to the Assessing Officer to pass a fresh order under Section 148A(d) of the Act within four weeks from date in accordance with law and after considering the response/reply of the petitioner dated 20th April, 2022 being Annexure P6 to the writ petition by passing a reasoned and speaking order.

In view of setting aside the impugned order dated 19th April, 2022 under Section 148A(d) of the Act subsequent notice under Section 148 of the Act also stand set aside.

With these observations and directions, this writ petition being WPO No. 2229 of 2022 is disposed of.

(MD. NIZAMUDDIN, J.)

Sbghosh