30.01.2023
Sl no. 14
Ct no. 2
P.M.

WPA 1306 OF 2023

Indu Goenka
- Vs -
Assessment Unit, Income Tax Department & Ors.

Mr. Abhrotosh Mazumder, Sr. Adv.
Mr. Avra Mazumder,
Mr. Ramesh Patodia,
Ms. Megha Agarwal,
Mr. Kausheyo Roy,
Mr. Suman Bhowmik,
Mr. Samrat Das
... for the petitioner

Mr. Samarjit Roy Chowdhury
... for the respondent.

Heard learned advocates appearing for the parties.

By this writ petition petitioner has challenged the impugned assessment order dated 20th December, 2022 under Section 143(3) read with Section 144B of the Income Tax Act, 1961 on the ground that while passing the impugned assessment order, formalities under Standard Operating Procedure (SOP) concerned has not been adhered to by not dealing with the rebuttal by the petitioner point-wise.

I have perused the aforesaid impugned assessment order. I find that it is not a case that the Assessing Officer has not at all adhered to or complied with the formalities of SOP. I find that the said impugned order has elaborate discussion on the point-wise rebuttal. It seems that petitioner is not satisfied with the reasoning and the way of dealing points of the rebuttal by the petitioner. There is a difference between not proper dealing or sufficiently dealing with no reasoning or not dealing at all.

In this case it appears that petitioner is not satisfied with the reasoning and finding recorded by the Assessing Officer in the impugned assessment order.

In addition to the legal position that the impugned assessment order is an appellable order under the statute, I am also of the view that this case does not fall in those categories of cases where the impugned order is either without jurisdiction or is patently in contrary to any statutory provisions or there is violation of principle of natural justice or there is any procedural irregularities in course of impugned assessment proceeding.

So far as finding and the reasoning given by the Assessing Officer /any adjudicating authority is concerned which is based on evidence, writ court in exercise of its constitutional writ jurisdiction under Article 226 of the Constitution of India should not act as an appellate authority over such assessment order and substitute the reasoning and finding by an Assessing Officer with its own finding and reasoning.

In view of the discussion made above this writ petition being WPA 1306 of 2023 is dismissed.

(Md. Nizamuddin, J.)