WPA 6276 OF 2023

11.04.2023
Sl no. 17
Ct no. 2
P.M.

Sitaram Sharma.
- Vs -
Assistant Commissioner of Income Tax Officer, Circle 40, Kolkata & Ors.

Mr. Avra Mazumder,
Mr. Samrat Das,
Mr. Suman Bhowmick
... for the petitioner

Mr. Om Narayan Rai
... for the respondent

Heard learned advocates appearing for the parties.

Petitioner has filed this writ petition being aggrieved by the action of the respondent authority concerned allegedly denying him the opportunity to cross-examine the two witnesses in course of proceedings subsequent to issuance of notice under Section 148 of the Income Tax Act, 1961 relating to assessment year 2018-2019 in spite of repeated requests.

It is the case of the petitioner that he is not denying that the assessing officer concerned has issued notices to participate or avail the opportunity to cross examine the witnesses in question but the case of the petitioner is that the notices were sent to him through e-mail and since the same was available in spam folder the said notices were overlooked by the petitioner bonafide and there is no malafide on the part of the petitioner. After filing the writ petition against such grievances, the assessing officer has passed the assessment order under Section 147 of the Act without considering and disposing of the representations made by the petitioner in this regard. Such assessment order under Section 147 of the Act dated 29th March, 2023 has been impugned in this writ petition by way of supplementary affidavit.

Considering the submission of the parties and in the interest of justice I am of the view that one opportunity to cross-examine one witness namely Jai Bhagwan Agarwal should be provided to the petitioner by issuing appropriate notice to the petitioner and after providing such opportunity to the petitioner if petitioner has able to make out a case in his favour, in that event the respondent assessing officer will withdraw the aforesaid assessment order under Section 147 of the Act. The whole exercise of issuance of notice providing opportunity to cross-examine the witnesses in question and to take a final decision shall be completed within a period of eight weeks from date.

With this observation and direction this writ petition being WPA 6276 of 2023 stands disposed of.

(Md. Nizamuddin, J.)