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25.04.23

WPA 7580 of 2023

Apeejay Tea Limited
Vs
Centralized Processing Centre, IT Dept. & Ors..

Mr. Abhratosh Majuddar, Sr. Adv.
Mr. Avra Mazumdar
Mr. Suman Bhowmick
Mr. Kausheyo Ray
Mr. Samrat Das

... For the Petitioner.

Mr. Om Narayan Rai
...For the Respondent.

Mr. Abhratosh Majumdar, learned senior counsel appearing for the petitioner submits that the petitioner filed his return for income on March 15, 2022 for the Assessment Year 2021-22. On September 15, 2022, the Respondent No. 1 issued notice under Section 143(1) (a) of the Income Tax Act for proposed adjustment for the Assessment Year 2021-22. On September 23, 2022, the petitioner replied to the notice dated September 15, 2022. On December 14, 2022, the Respondent No.1 passed the intimation order under Section 143(1)(a) of the Income Tax Act alleging that Rs.26,71,69,750/- is payable by the petitioner.

Learned senior counsel further submits that thereafter the petitioner filed an application for rectification under Section 154 of the Income Tax Act.

However, such application could not be uploaded by the petitioner as the Income Tax Portal is showing an error which reads as:

> "Under Section 154 of the Income Tax Act, 1961, an application for rectification can be filed only to correct mistakes apparent from records. In the rectification request field, Gross total income/Total income is sought to be changed. This is not a mistake apparent from record. Hence, your rectification request cannot be entertained".

Thus, the learned senior counsel submits that the application made under Section 154 of the Income Tax Act was not considered by the Income Tax Department, no opportunity of hearing was given to the petitioner and no reasoned order was passed after consideration of the application under Section 154 of the Income Tax Act.

Learned counsel appearing for the Income Tax Department after submitting the written instruction states:

> "that the assessee M/s Apeejay Tea Limited (PAN AAECA1925D)'s case is falling under the Jurisdiction of Circle-4(1), Kolkata. In the case of assessee, whether its case is rectifiable or

> not under Section 154 of the Income Tax Act, it may be considered after allowing appropriate opportunity of hearing to the assessee if Hon'ble High Court issue direction to the undersigned *i.e.* Deputy Commissioner of Income Tax, Circle-4(1), Kolkata being Jurisdictional Assessing Officer (JAO) is responsible to resolve the assessee's grievance after getting the rectification rights from the CPC."

The written instructions filed by the Income Tax authorities are kept with the record.

Heard both the parties.

It is clear from the submission of the learned counsel appearing for the Income Tax Department that the application filed under Section 154 of the Act has not been considered by the authorities, no opportunity of hearing was given and no reasoned order was passed disposing of the application which is contrary to the Section 154 of the said Act.

The Deputy Commissioner of Income Tax, Circle-4(1), Kolkata is directed to consider the application filed under Section 154 by the petitioner who is the Jurisdictional Assessing Officer (JAO) and is responsible to resolve the assessee's grievance after getting rectification rights from the CPC.

The Deputy Commissioner of Income Tax, Circle-4(1), Kolkata is also requested to give an opportunity of hearing to the petitioner before passing a reasoned order while considering the application under Section 154 of the Income Tax Act. No coercive steps shall be taken by the Income Tax authorities before the Deputy Commissioner of Income Tax, Circle-4(1), Kolkata, passes the reasoned order and the reasoned order passed under Section 154 of the Act should be communicated within four (04) weeks from date.

The writ petition being WPA 7580 of 2023 is accordingly disposed of.

There shall, however, be no order as to costs.

The parties shall act in terms of the copy of the order downloaded from the official website of this Court.

(Rajarshi Bharadwaj, J.)