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WPA 9613 of 2023

SMRK Investment & Finance Private Limited (formerly known as Crystal Vintrade Private Limited)
Vs
Income Tax Officer, Ward 7(1), Kolkata & Ors.

Mr. Abhratosh Majumder, Sr. Adv.,
Mr. Avra Mazumder,
Mr. Soumitra Chowdhury,
Ms. Alisha Das,
Mr. Kausheyo Roy,
Mr. Samrat Das,
Mr. Suman Bhowmik
... For the Petitioner.
Mr. Om Narayan Rai,
Mr. Prithu Dudhoria
... For the Respondents.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order under Section 148A(d) of the Income Tax Act, 1961 dated 25th July, 2022 relating to the assessment year 2014-15 by filing this writ petition on 19th April, 2023, and petitioner has challenged the subsequent final assessment order dated 30th May, 2023, under Section 147 of the Act which was passed during the pendency of the writ petition.

Mr. Mazumder, learned Advocate appearing for the petitioner submits that though the aforesaid impugned assessment order is an appealable order but in the interest of justice petitioner should be given an opportunity of hearing since the petitioner could not participate in the proceedings subsequent to the impugned assessment order passed under Section 148A(d) of the Act by making repeated prayers for adjournment before the Assessing Officer on the ground of pendency of the writ petition and the respondent/Assessing Officer has repeatedly informed the petitioner from time to time that unless he brings the order of stay of the proceedings he is not bound to stop the proceedings particularly in view of the fact that the assessment was going to become time barred by 31st May, 2023.

Mr. Om Narayan Rai, learned Advocate appearing for the respondents submits that the impugned order of assessment under Section 147 of the Act should not be interfered with by this court since it is an appealable order and no procedural irregularity has been committed by the Assessing Officer in passing the assessment order though it has been passed during the pendency of the writ petition challenging the order under Section 148A(d) of the Act and Assessing Officer could not be faulted for his act of passing the impugned assessment order since there was no stay of the proceedings by this court and the assessment was going to become time barred.

Considering the facts and circumstances of the case as appears from record and submission of the parties and in the interest of justice and by taking into consideration that petitioner could not avail the opportunity of hearing at the time of passing the impugned assessment order may be under the wrong impression that mere pendency of the writ petition is enough for the Assessing Officer for not proceeding with the impugned assessment proceedings though such an impression of the petitioner was totally incorrect, the impugned assessment order under Section 147 of the Act shall not be given effect to and the Assessing Officer concerned shall provide an opportunity of hearing to the petitioner and allow it to file the relevant documents and in case, the petitioner is able to satisfy the Assessing Officer for dropping the impugned assessment proceedings in course of hearing and with sufficient documents, in that event Assessing Officer will drop the assessment proceedings and in case of failure to make out a case for dropping the impugned assessment proceedings in course of hearing and even after considering the documents to be filed by the petitioner, the aforesaid impugned order shall become operative. The whole exercise by the Assessing Officer shall be completed, within a period of eight weeks from the date of communication of this order.

With this observation and direction this writ petition being WPA 9613 of 2023 is disposed of.

(Md. Nizamuddin, J.)