16.06.2023.
p.b.
Sl. No.6.

WPA 10283 of 2023

Ranjeet Kumar Kanodia (HUF)
Vs.
Income Tax Officer, Ward No.44(2),
Kolkata & Ors.

Mr. Avra Mazumder,
Mr. Suman Bhowmik,
Mr. Samrat Das.
........for the petitioner.
Mr. Tilak Mitra.
........for the respondent.

Heard both the parties.

By this writ petition, petitioner has challenged the impugned order under Section 148A(d) of the Income Tax Act, 1961, dated 30th March, 2023, relating to assessment year 2016-2017, mainly on the ground that the basis of the impugned adverse assessment order by the Assessing Officer is that petitioner has not filed any return in the relevant assessment year.

Learned advocate appearing on behalf of the petitioner produces the original acknowledgment receipt relating to the said assessment year 2016-2017 which establishes that the original return was filed on 23rd July, 2016 in the office of the Joint Commissioner of Income Tax, Range-45, Kolkata.

Mr. Mitra, learned advocate opposing this writ petition submits that even if the said return has been filed, it has been filed not before the appropriate authority and Joint Commissioner is not the Assessing Officer of the petitioner and the Assessing Officer of the petitioner is ITO 44(2), Kolkata, as appears from record.

Without going into the merit of the assessment order under Section 148A(d) of the Act and subsequent proceeding, on the ground of non-consideration of Return of the petitioner in spite of filing the same before the department may be not before the correct officer, but the same cannot be ignored our disregarded, the aforesaid impugned order dated 30th March, 2023 and subsequent proceeding is set aside and the matter is remanded back to the Assessing Officer concerned to pass a fresh order in accordance with law and by observing principle of natural justice and after taking into consideration the aforesaid Return in the hardcopy along with relevant document within a period of 12 weeks from the date of communication of this order.

This writ petition being WPA 10283 of 2023 is disposed of.

(Md. Nizamuddin, J.)