WPA 11323 OF 2023

26.06.2023
Sl no. 3
Ct no. 2
P.M.

Gopal Kumar Agarwala
- Vs -
Assistant Commissioner of Income Tax, Circle 7(1), Kolkata & Ors.

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

Mr. Vipul Kundalia,
Mr. Soumen Bhattacharjee,
Mr. Anurag Roy
... for the Income Tax authorities.

Heard learned advocates appearing for the parties.

By this writ petition petitioner has challenged the impugned order under Section 148A(d) of the Act dated 8th April, 2023 relating to the assessment year 2019-2020 on the ground of violation of principle of natural justice by the assessing officer concerned in not furnishing the documents relied upon by him which was specifically asked for by the petitioner by its petition dated 21st March, 2023 in response to the notice under Section 148A(b) of the Act. The Assessing Officer in the aforesaid impugned order under Section 148A(d) of the Act has recorded that no response was given in spite of providing them the relevant documents at their e-mail address.

It is the case of the petitioner that the e-mail address referred in the impugned order is not the e-mail address of the petitioner for the purpose of any correspondence which appeared from one of the orders under Section 143(1) of the Act itself where the e-mail address of the petitioner has been recorded and in the said address petitioner did not receive any relevant documents asked for by its submission dated 21st March, 2023.

Without going into the merits of the impugned order under Section 148A(d) of the Act, since the petitioner itself wants to participate in the impugned proceeding on condition of furnishing of the documents asked for by its submission dated 21st March, 2023 which were not supplied to them at their e-mail address and in view of admitted position that later on the same were received by the petitioner through its accountant, in the interest of justice the aforesaid impugned order dated 8th April, 2023 is set aside by directing the petitioner to file response/reply, if any, to the documents relied upon which have been received by the petitioner through its accountant, within a period of two weeks from date and if such response/reply is filed by the petitioner within the time stipulated herein the Assessing Officer concerned shall consider the said response/reply and pass a fresh order under Section 148A(d) of the Act after giving an opportunity of hearing to the petitioner or its authorized representatives within a period of eight weeks from the date of receipt of such reply.

In case of failure on the part of the petitioner to give reply/response as indicated herein above within the time stipulated herein in that event this order of setting aside of the aforesaid impugned order will not have any force.

With this observation and direction this writ petition being WPA 11323 of 2023 is disposed of.

(Md. Nizamuddin, J.)