WPA 12104 OF 2023

19.06.2023
Sl no. 27
Ct no. 2
P.M.

Sidharth Lakhotia.

- Vs –

Union of India & Ors.

Mr. Ejaz Khan,
Mr. D. Das,
Ms. Ananya Adhikary
... for the petitioner

Mr. Amit Sharma
... for the respondents

Heard learned advocates appearing for the parties.

Supplementary affidavit filed by the petitioner is kept on record.

By this writ petition, petitioner has challenged the impugned order under Section 148A(d) of the Income Tax Act, 1961, dated 27th July, 2022, relating to assessment year 2017-2018 by filing this writ petition on 15th May, 2023 and has also challenged the subsequent order under Section 147 of the Act dated 23rd May, 2023 which was passed during the pendency of this writ petition, by way of supplementary affidavit.

Petitioner has challenged the impugned subsequent assessment order on the ground that the same is bad and contrary to law by not issuing any notice under Section 143(2) of the Act before passing the impugned assessment under Section 147 of the Act which is mandatory and also as per the law laid down by the Supreme Court in several decisions.

Mr. Sharma, learned advocate appearing for the respondents could not satisfy this Court with regard to the allegation of the petitioner that the impugned order under Section 147 of the Act was passed without issuance of notice under Section 143(2) of the Act.

Considering the facts and circumstances of this case as appears from record and submission of the parties this writ petition being WPA 12104 of 2023 is disposed of by setting aside the aforesaid impugned order dated 23rd May, 2023 and remand the matter to the Assessing officer concerned to proceed from the stage of issuance of notice under Section 142(1) of the Act and pass fresh assessment order by following procedure laid down for passing the assessment order including the issuance of notice under Section 143(2) of the Act and final assessment order should be passed within twelve weeks from the date of communication of this order.

In course of assessment proceeding no unnecessary adjournment should be granted to the petitioner or its authorized representatives.

(Md. Nizamuddin, J.)