26.06.2023.
PB
Sl. No.9.

WPA 12133 of 2023

Rakesh Singh
Vs
Income Tax Officer
Ward 62(1), Kolkata & Ors.

Mr. Avra Mazumder,
Mr. Ramesh Kr. Patodia,
Ms. Megha Agarwal,
Mr. Samrat Das,
Mr. Suman Bhowmik,
... For the Petitioner.
Mr. Om Narayan Rai.
........for the respondent.

Heard both the parties.

By this writ petition, petitioner has challenged the impugned order dated 29th July, 2022, under Section 148A(d) of the Income Tax Act, 1961, relating to the assessment year 2014-15 and subsequent order under Section 147 of the Act, dated 29th May, 2023, which was passed during the pendency of this writ petition.

The main grievance of the petitioner in this writ petition is that the very similar nature of receipt of insurance was exempted from income by the Assessing Officer in the case of his brother and in spite of giving details of the case of his brother, case of the petitioner has not been considered. Petitioner has filed all the relevant document before this Court by way of supplementary affidavit, but the same were not filed before the Assessing Officer and as such the same could not be taken into consideration by the Assessing Officer. Petitioner submits that petitioner has not participated in the proceeding subsequent to the order under Section 148A(d) of the Act.

Considering the facts and circumstances of the case and submission of the parties and without going into the merit of the aforesaid impugned assessment order under Section 147 of the Act, dated 29th May, 2023, in the interest of natural justice, the aforesaid impugned order dated 29th May, 2023 is set aside and the matter is remanded back to the Assessing Officer concerned to pass a fresh assessment order by giving an opportunity of hearing to the petitioner or his authorized representatives, if such documents are filed by the petitioner within two weeks from date and the Assessing Officer concerned shall pass a fresh assessment order under Section 147 of the Act by taking into consideration those document, within 8 weeks from the date of receipt of such documents after giving an opportunity of hearing to the petitioner or his authorized representatives. In case of failure on the part of the petitioner to file the documents as indicated herein within the time stipulated this order will not have any force.

With this observation and direction, this writ petition being WPA 12133 of 2023 is disposed of.

(Md. Nizamuddin, J.)