10.01.2023.
p.b.
Sl. No.2.

W.P.A. 13704 of 2021

Raghav Bhartia
Vs.
Union of India & Ors.

Mr. Gopal Ram Sharma.
........for the petitioner.
Mr. Bipul Kundalia.
..........for the respondent.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 27th April, 2021 passed under Section 143(3) read with Section 144B of the Income Tax Act, 1961 relating to the assessment year 2018-19, on the ground that the same has been passed in violation of the mandatory obligation of issuance of show-cause notice and serving of draft assessment to the petitioner to enable him to take any exception if so desire which has not been complied with in this case which is the admitted factual and legal position.

Mr. Sharma, learned advocate for the petitioner in support of his contention has relied on an unreported judgment of this Court dated 16th November, 2022 in MAT No.1737 of 2022 in the case of Maghdh Sugar & Energy Limited & Anr. Vs. Assessment Unit, Income Tax Department, National Faceless Assessment Centre & Anr.

Mr. Kundalia, learned advocate for the respondents is not in a position to contradict the aforesaid factual and legal position about non-service of draft assessment for proposed assessment order as well as the violation of Section 144(9) of the Income Tax Act, 1961.

Considering the facts and circumstances of this case and submission of the parties and the judgment of the appeal court as referred hereinabove, the impugned order dated 27th April, 2021 and all subsequent proceedings on the basis of the aforesaid impugned order are set aside and the matter is remanded back to the assessing officer concerned to proceed with the impugned assessment proceeding after compliance with the mandatory obligations prescribed under Section 144B of the Income Tax Act, 1961 by issuing a show-cause notice under Section 144B(1)(xii)(b) of the Act clearly setting out the proposed variations and the assessee should be granted reasonable time to file objections along with the documents and receipt of the same, fresh proceedings shall be initiated in accordance with law.

With this observation and direction, this writ petition being WPA 13704 of 2021 stands disposed of.

(Md. Nizamuddin, J.)