

28.06.2023.
PB
Sl. No.14.

WPA 13988 of 2023

Shri Rajib Samaddar
Vs
The Income Tax Officer,
Ward 50(1), Kolkata & Ors.

Mr. Avra Mazumder,
Ms. Alisha Das,
Mr. Suman Bhowmik,
Mr. Samrat Das.

... For the Petitioner.

Mr. S. Roy Chowdhury..

.....for the respondent.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order under Section 147 read with Section 144B of the Income Tax Act, 1961, dated 15th May, 2023, relating to the assessment year 2016-17, on the ground of violation of principle of natural justice by not granting time to file documents in response to its notice dated 26th April, 2023 for proposed variation to the draft assessment. Petitioner submits that neither the prayer for adjournment was considered nor rejected and the impugned order of the Assessing Officer is totally silent on such application for adjournment filed by the petitioner on 3rd May, 2023.

Mr. Roychowdhury, learned advocate appearing for the respondent could not satisfy this Court as to whether the aforesaid adjournment petition of the petitioner was considered or rejected.

Considering the facts and circumstances of the case and submission of parties, though the impugned assessment order is an appellable order of statute but in view of violation of principle of natural justice, the aforesaid impugned order under Section 147 of the Act dated 15th may, 2023 is set aside and the matter is remanded back to the Assessing Officer concerned to pass a fresh assessment order after giving an opportunity to the petitioner to file response with supporting documents to its show-cause notice dated 26th April, 2023 within 7 working days from the date of communication of this order and final assessment order shall be passed within six weeks from the date of filing of such response along with the relevant documents, after giving a personal hearing to the petitioner or his authorized representatives.

With this observation and direction, this writ petition being WPA 13988 of 2023 is disposed of.

(Md. Nizamuddin, J.)

