22.08.2023
PB
Sl. No.3.

WPA 15132 of 2023

Ashan Alam
Vs
Income Tax Officer, Ward 30(1),
kolkata & Ors.

Ms. Manju Agarwal,
Mr. Geetika Agarwal.
... For the Petitioner.
Mr. Amit Sharma.
.......for the respondents.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned final assessment order dated 22nd May, 2023, under Section 147 read with Section 144B of the Income Tax Act, 1961, relating to the assessment year 2017-18, which is an appellable order under the statute, on the ground that no notice under Section 148A(b) of the Act was served upon the petitioner at any point of time.

Mr. Sharma, learned advocate opposing the writ petition submits on affidavit that the aforesaid allegation of the petitioner is not correct since the aforesaid notice under Section 148A(b) of the Act was sent to the petitioner on its e-mail address and order under Section 148A(d) was also sent in the same e-mail address of the petitioner which Ms. Agarwal disputes. These are matters of disputed facts and evidence which cannot be scrutinized by the writ court. In addition petitioner has approached this writ court even after giving response to the notice under Section 142(1) of the Act subsequent to the order under Section 148A(d) without agitating the alleged issue of non-service of the aforesaid notice and order. I am of the considered view that the statutory appellate authority will be the proper authority for going into these facts and evidence in addition to the question of law and accordingly, this writ petition being WPA 15132 of 2023 is disposed of by granting liberty to the petitioner to file the aforesaid appeal against the impugned assessment order dated 22nd May, 2023 under Section 147 of the Act within four weeks from date and to agitate all the points raised in this writ petition and any point of law before the appellate authority. If the appeal is filed by the petitioner within the time stipulated herein, the appellate authority will consider such appeal on merit and in accordance with law without raising the point of limitation.

(Md. Nizamuddin, J.)