WPA 16871 OF 2023

25.07.2023
Sl no. 25
Ct no. 2
P.M.

Academy of Technology & Ors.

- Vs –

Income Tax Officer, Ward 24(1), Hooghly & Ors.

Mr. Soumya Kejriwal,
Ms. Ananya Rath,
Mr. Navin Mittal
… for the petitioners

Mr. S. Roy Chowdhury
… for the respondents

Heard learned advocates appearing for the parties.

By this writ petition petitioners have challenged the impugned order under Section 148A(d) of the Income Tax Act, 1961 dated 30th March, 2023 relating to assessment year 2019-2020 on the ground of non-consideration of its objection/reply to the notice under Section 148A(d) of the Act and also on the ground of violation of principle of natural justice as well as of non-application of mind in passing the impugned order.

It appears from record that a notice under Section 148A(b) of the Act was issued on 26th February, 2023 by which petitioner was asked to give reply to the same by 6th March, 2023 and petitioner by its aforesaid letter requested the assessing officer concerned to grant time and the time was granted by the assessing officer concerned to file objection/response to the same by 17th March, 2023.

It appears from record that on 16th March, 2023 being annexure P/6 to the writ petition, petitioner has filed response/reply to the aforesaid notice under Section 148A(b) of the Act. On perusal of the aforesaid order under Section 148A(d) of the Act it appears that the objection/response of the petitioner filed on 16th March, 2023 has not only been not considered rather it has been recorded that no reply has been received even as on 27th March, 2023. Such finding of the assessing officer is perverse and contrary o record and non-consideration of the petitioner's aforesaid reply/response at the time of passing the impugned order under Section 148A() of the Act amounts to violation of principle of natural justice also.

Considering the facts and circumstances of his case, the aforesaid impugned order dated 30th March, 2023, under Section 148A(d) of the Act and all subsequent proceedings are set aside and the matter is remanded back to the assessing officer concerned to pass a fresh order under Section 148A(d) of the

Act in accordance with law and by passing a reasoned and speaking order after taking into consideration the aforesaid reply/response of the petitioner dated 16th March, 2023 within a period of eight weeks from the date of communication of this order.

With this observation and direction this writ petition being WPA 16871 of 2023 stands disposed of.

(Md. Nizamuddin, J.)