14.08.2023.
PB
Sl. No.10.

WPA 17661 of 2023

Justify Distributors Pvt. Ltd.
Vs
Income Tax Officer, Ward 2(1),
kolkata & Ors.

Mr. Avra Mazumder,
Mr. Suman Bhowmik,
Mr. Samrat Das.
... For the Petitioner.
Mr. Om Narayan Rai.
........for the income tax authority.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order under Section 148A(d) of the Income Tax Act, 1961, dated 19th April, 2023, relating to the assessment year 2019-20, on the ground that the impugned order being non-speaking and is in total non-application of mind by recording therein that petitioner had not filed any response to the respondent's letter/notice dated 28th March, 2023, while it is on record that by a letter dated 25th April, 2023 being Annexure P-2 to the writ petition, petitioner has specifically complied the aforesaid notice of the respondents dated 28th March, 2023. On perusal of the aforesaid impugned order, I find that the allegation of the petitioner is substantially correct that in spite of filing its objection/response to the notice of the respondent dated 28th March, 2023, the same has not been considered in the impugned order under Section 148A(d) of the Act and that the Assessing Officer concerned in total non-application of mind has recorded that the aforesaid notice dated 28th March, 2023 was not complied with.

Mr. Rai, learned advocate appearing for the respondent income tax authority could not contradict the aforesaid allegation of the petitioner which is substantiated by record.

Considering the facts and circumstances of the case as appears from record and submission of the parties, the aforesaid impugned order dated 19th April, 2023, under Section 148A(d) of the Act and subsequent proceeding are set aside and the matter is remanded back to the Assessing Officer concerned to pass a fresh order after considering the reply of the petitioner dated 18th April, 2023, in accordance with law and by giving an opportunity of personal hearing to the petitioner within 8 weeks from the date of communication of this order. At the time of hearing, petitioner shall be entitled to raise all the points in this writ petition before the Assessing Officer.

With this observation and direction, this writ petition being WPA 17661 of 2023 is disposed of.

(Md. Nizamuddin, J.)