16.08.2023
PB
Sl. No.11.

WPA 18137 of 2023

Tirupati Marchantiles Pvt. Ltd.
Vs
Union of India & Ors.

Mr. Avra Mazumder,
Mr. Suman Bhowmik,
Mr. Samrat Das.
... For the Petitioner.
Mr. Soumen Bhattacharya.
.......for the respondent.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 4th April, 2023 under Section 148A(d) of the Income Tax Act, 1961, relating to the assessment year 2016-17, on the ground that the aforesaid impugned order is bad and not sustainable in law for the reason that the final conclusion arrived at by the Assessing Officer that the assessee has given bogus loans and received interest to the aggregate value of Rs.10 crores an odd during the relevant financial year while the show-cause notice was issued on the ground that the petitioner has been benefited by way of bogus purchase of amount to Rs.10 crores an odd and the nature of transaction is totally different from the show-cause and final conclusion.

Considering the facts and circumstances of the case as appears from record and submission of the parties, this writ petition being WPA 18137 of 2023 is disposed of by setting aside the aforesaid impugned order dated 4th April, 2023 and the notice under Section 148 of the Income Tax Act, 1961, and the matter is remanded back to the Assessing Officer concerned to pass a fresh order on the aforesaid issue raised by the Assessing Officer in its show-cause notice under Section 148A(b) of the Act in accordance with law and by passing a reasoned and speaking order after giving an opportunity of hearing to the petitioner or its authorized representatives within a period of 8 weeks from the date of communication of this order. It is needless to mention that in case of non-cooperation by the petitioner in furnishing the relevant documents if asked for by the Assessing Officer, the Assessing Officer may draw adverse inference against the petitioner.

(Md. Nizamuddin, J.)