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WPA 18261 of 2023

BTL EPC Limited
Vs
Assistant/Deputy Commissioner of Income Tax, Circle 1(1), Kolkata & Ors.

Mr. Avra Mazumder,
Mr. Ramesh Kr. Patodia,
Ms. Megha Agarwal
... For the Petitioner.
Mr. Prithu Dudhoria
... For the Respondents.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 28th April, 2023, under Section 148A(d) of the Income Tax Act, 1961 relating to the assessment year 2016-17 on the ground of violation of principles of natural justice by not providing the petitioner the statement of two witnesses named Sri Romy Patni and Kailash Kumar Patwari upon which the Assessing Officer has relied in the impugned order under Section 148A(d) of the Act though reference of statements of those witnesses has been given in the Annexure to the notice under Section 148A(b) of the Act.

Mr. Dudhoria, learned Advocate appearing for the respondents submits that the department has enough material on the basis of investigation and statements of the aforesaid two witnesses, which clearly show the unaccounted transactions took place between the petitioner and those two witnesses.

Without going into the merits and relevancy of those statements, only on the ground of violation of principles of natural justice by not providing the petitioner the statements of those aforesaid two witnesses, the aforesaid impugned order dated 28th April, 2023, under the Section 148A(d) of the Act is set aside and the matter is remanded back to the Assessing Officer concerned to pass a fresh speaking order after considering the reply/response of the petitioner on the statements of the aforesaid two witnesses which have been handed over by Mr. Dudhoria, learned Advoate appearing for the respondents to Mr. Mazumder, learned Advocate appearing for the petitioner. Petitioner will be at liberty to file any objection or exception to those statements within two weeks from date and the Assessing Officer concerned shall consider and pass a fresh reasoned order in accordance with law after giving an opportunity of hearing to the petitioner or its authorised representative, within a period of four weeks from the date of receipt of such objection or exception. If no such objection or exception is filed by the petitioner within the time stipulated herein, this order will not have any force and the aforesaid impugned order dated 28th April, 2023, under Section 148A(d) of the Act shall stand revived.

With this observation and direction this writ petition being WPA 18261 of 2023 is disposed of.

(Md. Nizamuddin, J.)