29.08.2023
PB
Sl. No.17.

WPA 19245 of 2023

Zafar Alam Shaharyar, Director of
M/s. Vaibhavlaxmi Commodities
Pvt. Ltd.
Vs
Income Tax Officer,
Ward – 13(1) Kolkata & Ors.

Mr. Avra Mazumder,
Mr. Suman Bhowmik,
Ms. Alisha Das,
Mr. Samrat Das.
... For the Petitioner.
Mr. Smarajit Roy Chowdhury.
.......for the respondent.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned assessment order dated 30th May, 2023, under Section 147 read with Section 144 of the Income Tax Act, 1961, relating to the assessment year 2015-16, on the ground of violation of principle of natural justice by not giving the petitioner effective opportunity of hearing as well as the time to file reply to the show-cause notice which was issued on 26th May, 2023, at 6-18 p.m. and the date of hearing was fixed on 29th May, 2023, at 11-30 a.m. and 27th May, 2023 and 28th May, 2023 were Saturday and Sunday. So, considering these facts actually petitioner was given less than a day for filing reply to the show-cause notice as well as for attending the hearing. Though the aforesaid impugned assessment order is an appellable order and alternative remedy is available to the petitioner, but the facts and exceptional circumstances as recorded hereinabove and in the interest of justice, petitioner is being given opportunity to file the reply to the impugned show-cause notice and for hearing within 7 days from date. The aforesaid impugned assessment order dated 30th May, 2023, is accordingly set aside and fresh assessment order is to be passed by the Assessing Officer concerned in accordance with law. If petitioner files the reply within the time stipulated herein, the fresh time for hearing will the fixed.

With this observation and direction, this writ petition being WPA 19245 of 2023 is disposed of.

(Md. Nizamuddin, J.)