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W.P.A. 28375 of 2022
(Assigned)

The Rifle Factory Co-operative Society Ltd.
Vs.
The Assistant Commissioner of Income Tax
Circle-49(1) & ors.

Mr. Somak Basu
Mr. Swagato Kabiraj
... for the petitioner

Mr. S. Roychowdhury
... for the respondents

This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by a letter dated 7th December, 2022 read with order dated 15th December, 2022 issued by the Assessing Officer, Circle 49(1), Kolkata, on the petitioner with regard to payment of outstanding dues.

It appears that the assessment order was passed on 18th December, 2019 and subsequently, appeal and stay application was filed by the petitioner.

Counsel on behalf of the petitioner submits that till date no opportunity has been granted with regard to stay or the appeal filed by the petitioner. He submits that the impugned letter issued is *non est* in law as an opportunity should have been granted to the petitioner before making such demand.

In my view, the factual matrix in the particular case, which indicates that the Assessing Officer remained silent for a period of approximately three years, raises certain questions. Furthermore, the fact that the appeal and the stay application have not been heard is to be looked into. The order passed on 15th December, 2022 is an order passed in violation of principle of natural justice as no opportunity was granted to the petitioner to make his submission. Furthermore, the said order is cryptic in nature and does not deal with the stay application and appeal filed by the petitioner.

In light of the same, the impugned letter dated 7th December, 2022 and order dated 15th December, 2022 are quashed and set aside.

The authorities are directed to grant an opportunity of hearing to the petitioner with regard to stay application and pass a reasoned order after granting an opportunity of hearing to the petitioner within a period of six weeks from date. Upon passing of the reasoned order, the said order should be communicated to the petitioner within a period of one week from the date of passing of the order.

I make it clear that the petitioner shall not be entitled to seek any adjournment with regard to hearing in the stay application and the appeal.

With the above direction, this writ petition is disposed of.

Since no affidavit-in-opposition is called for, allegations made in the writ petition are deemed not to have been admitted.

All parties are to act on website copy of this order.

(Shekhar B. Saraf, J.)