IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE
MAT No. 74 of 2023
+
CAN 1 of 2023

11.10.2023
Sl no. 17

P.M.

Surajit Ghosh.
- Vs -
Union of India & Ors.

Mr. Himangshu Kumar Ray,
Mr. Abhilash Mittal
... for the appellant

Mr. Prithu Dudhoria
... for the respondents

Affidavit of service filed by the appellant is kept with the record.

Heard learned advocates appearing for the parties.

This appeal arises out of the order of a learned Single Judge dated 15th June, 2023 in WPA 1149 of 2023 where the subject matter of challenge was the final assessment order under Section 143 (3) read with Section 144B of the Income Tax Act, 1961 which is an appellable order under the statute.

It appears from record that learned Single Judge did not incline to pass any interim order in the matter and simply passed direction for affidavits by the parties. The main ground of challenge against the impugned assessment order in the writ petition was that the same was passed in violation of principle of natural justice and that the same was exparte.

Considering the facts and circumstances of this case and submission of the parties we are inclined to dispose of both the appeal and writ petition by granting liberty to the petitioner to file statutory appeal against the impugned assessment order dated 26th December, 2022 relating to assessment year 2021-2022 within fifteen days from date and if such appeal is filed by the petitioner before the appellate authority concerned, the same shall be considered and disposed of on merit without raising the point of limitation. In course of hearing the assessee petitioner will be entitled to raise all the points raised in the writ petition.

In case of default in fling the appeal within the time stipulated herein, this order will not have any force.

With this observation and direction both the writ petition being WPA 1149 of 2023, CAN 1 of 2023 and MAT 74 of 2023 are disposed of.

(Md. Nizamuddin, J.)

(Partha Sarathi Chatterjee,J.)