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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/151/2023

ANUJ BAKSHI
VS
ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE-46 KOLKATA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 6th February, 2023.

Appearance:
Mr. J. P. Khaitan, Sr. Adv.
Ms. Sutapa Roy Choudhury, Adv.
Ms. Aratrika Roy, Adv.
... for the petitioner.

Mr. Aryak Dutt, Adv.
Mr. Amit Sharma, Adv.
..for the respondents.

The Court: Heard learned Advocates appearing for the parties. By this writ petition, petitioner has challenged the impugned order dated 26th December, 2022, passed under Section 143(3) read with Section 144B of the Income Tax Act, 1961, on the ground of violation of principles of Natural Justice by denying to participate in the proceeding for hearing in the impugned assessment proceeding. It appears from record that notice of hearing through video conference was fixed at 12.30 p.m. on 22nd December, 2022 and a link was sent on 22nd December, 2022, to the petitioner which appears from pages 102 and 103 of the writ petition. It is the case of the petitioner that in spite of fixing the time of hearing and providing the link by the Department, no access could be made for video conference and in support of such allegation by the petitioner, petitioner has annexed screenshot copies from his computer which appears at pages 105,106 and 107 of the writ petition showing the blank screen at the time of hearing.

Considering the facts and circumstances of the case, as appears from record that admittedly petitioner could not participate in the hearing for the assessment in question for no fault of him, in the interest of Justice, aforesaid impugned order dated 26th December, 2022 is set aside and the matter is remanded back to the assessing officer concerned to pass a fresh speaking order after giving opportunity of hearing to the petitioner or his authorised representative.

It is clarified that this Court is setting aside the impugned order only on the ground of violation of principle of Natural Justice without going into the merit of the impugned assessment order which shall be reconsidered by the assessing officer strictly in accordance with law.

With this observations and directions the writ petition being WPO/151/2023 stands disposed of.

(MD. NIZAMUDDIN, J.)

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