OD –10

ORDER SHEET
WPO/890/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

PRADIP KUMAR JAISWAL AND ORS.
VS
INCOME TAX OFFICER, WARD 37(1), KOLKATA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 3rd May, 2023.

Appearance:
Ms. Sutapa Roy Choudhury, Adv.
Mr. Abhijat Das, Adv.
Ms. Aratrika Roy, Adv.
Mr. Anirban Chatterjee, Adv.
...For the Petitioner
Mr. S. Roy Chowdhury, Adv.
...For the Respondents

The Court: Heard learned counsel appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 10th March, 2023 passed under Section 147 of the Income Tax Act, 1961 relating to assessment year 2018-19 on the ground that the same has been passed in violation of Section 144B(6)(vii) of the aforesaid Act by not providing any opportunity of hearing before passing the aforesaid impugned order under Section 147 of the Act.

Mr. Roy Chowdhury, learned advocate representing the respondent Income Tax Authority, by earlier order of this Court dated 28th April, 2023 was asked to verify from record about the aforesaid allegation of the petitioner. Mr. Roy Chowdhury on instruction submits that from record it appears that the aforesaid impugned order was passed without compliance of the formalities of providing opportunity of hearing to the petitioner as per

Section 144B(6)(vii) of the aforesaid Act. Though this Court is very reluctant to interfere with any order under Section 143(3) or Section 147 of the Act since the same is an appealable order but in this case admittedly the respondent Income Tax Authority has acted contrary to and in non-compliance of statutory provision of law and in view of this admitted legal and factual position, the aforesaid impugned order dated 10th March, 2023 passed under Section 147 of the Act is set aside and the matter is remanded back to the assessing officer concerned to pass fresh order after compliance of the formalities of the aforesaid provision of Section 144B(6)(vii) of the aforesaid Act, within a period of three months from date.

With this observation, this writ petition being WPO 890 of 2023 stands disposed of.

Learned advocates appearing for the parties shall communicate this order at once.

(MD. NIZAMUDDIN, J.)

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