OD –10

ORDER SHEET
WPO/926/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

ADVITKARMA ENTERPRISES LLP
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 8th May, 2023.

Appearance:
Mr. Subash Agarwal, Adv.
Mr. Brijesh Kumar Singh, Adv.
...For the Petitioner
Mrs. Smita Das De, 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 assessment order under Section 147 read with Section 144B of the Income Tax Act, 1961 dated 27th March, 2023 relating to assessment year 2018-19 on the ground of violation of principles of natural justice. Writ Court is very reluctant to interfere with any order under Section 147 of the Act since it is an appealable order but where there is patent violation of principles of natural justice Writ Court cannot throw the writ petition. It appears from record that petitioner before passing the reassessment order under Section 147 of the Act had asked for personal hearing and though it was granted by fixing the date of hearing on 23rd March, 2023 but link could not be opened and the petitioner could not avail the opportunity of personal hearing by video conferencing and this fact of non-opening of the link was intimated by the petitioner to the respondent by making a prayer for giving another opportunity as appears from page 64 of the writ petition. But without considering the aforesaid request by the petitioner for providing it opportunity of personal hearing which could not be availed by the petitioner due to technical snag in the department portal and for such technical fault in the system of the department an assessee/petitioner cannot be made to suffer.

Ms. Das De, learned advocate appearing for the respondent could not satisfy this Court with any document to show that the request of the petitioner for providing it opportunity of personal hearing by video conferencing was given to the petitioner or that the request of the petitioner was considered after pointing out such technical fault in the system of the department.

Considering the facts and circumstances of the case as appears from record and submissions of the parties, this writ petition being WPO 926 of 2023 is disposed of by setting aside the aforesaid impugned order dated 27th March, 2023 and remanding the matter back to the assessing officer concerned to pass a fresh order in accordance with law, within a period of eight weeks from the date of communication of this order by giving an opportunity of hearing to the petitioner through video conferencing by providing a proper link.

It is recorded that this Court has not gone into the merit of the impugned assessment order and the same has been set aside solely on the ground of violation of principles of natural justice.

(MD. NIZAMUDDIN, J.)

TR/