WPO/1087/2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

APEEJAY TEA LIMITED
VERSUS
DEPUTY COMMISSIONER OF INCOME TAX,
CIRCLE 4(1), KOLKATA AND ORS.

BEFORE
The Hon'ble Justice MD. NIZAMUDDIN
Date: 6TH JUNE, 2023

APPEARANCE
Mr. Abhratosh Majumder, Sr. Advocate
Mr. Avra mazumder, Advocate
Mr. K. Roy, Advocate
Ms. Alisha Das, Advocate
Mr. Suman Bhowmick, Advocate
Mr. Samrat Das, Advocate
....for the petitioner
Mr. Om Narayan Rai, Advocate
....for the respondents

The Court: Supplementary affidavit filed by the petitioner be kept with the record.

Heard learned Advocates appearing for the parties.

By this writ petition, the petitioner has challenged the impugned order dated 17th July, 2022 under Section 148A(d) of the Income Tax Act, 1961 and all subsequent proceedings, inter alia, on the ground that the impugned order under Section 148A(d) of the Act was passed in violation of criteria laid down under Section 151(ii) of the Act by not taking approval from the "specified authority".

Mr. Rai, learned Advocate appearing for the respondents-Income Tax Authorities could not produce relevant record to show that before passing the impugned order under Section 148A(d) of the Act, approval from the “specified authority” under Section 151(ii) of the Act was taken.

Considering the facts and circumstances of the case as appear from record and submissions of the parties, this writ petition is disposed of by setting aside the aforesaid impugned order under Section 148A(d) of the Act and all subsequent proceedings and the matter is remanded back to the assessing officer concerned to pass fresh order under Section 148A(d) of the Act in accordance with law by proceeding from the stage where the irregularity of not taking approval from the “specified authority” has been committed. The whole assessment proceedings shall be concluded and the final order should be passed within 12 weeks from the date of communication of this order in accordance with law and after observing principle of natural justice.

With these observation and direction, this writ petition being WPO/1087/2023 is disposed of.

(MD. NIZAMUDDIN, J.)

akg/