OD –5

ORDER SHEET
WPO/1180/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

HOWRAH GASES LIMITED
VS
ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE-1(1), KOLKATA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 12th July, 2023.

Appearance:
Mr. Abhratosh Majumdar, Sr. Adv.
Mr. Pratyush Jhunjhunwala, Adv.
Mr. Mrigank Kejriwal, Adv.
Mr. Kausheyo Roy, Adv.
Ms. Sretapa Sinha, Adv.
...For the Petitioner
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 13th April, 2023 under Section 148A(d) of the Income Tax Act, 1961 and subsequent notice under Section 148 of the Act on the ground of violation of principles of natural justice by not providing it the copy of the evidence by way of documents and statements and also denying the petitioner’s opportunity to cross-examine the persons who have made any deposition against the assessee/petitioner in spite of specifically asking for the same by its letter dated 28th March, 2023 as appears at page 75 of the writ petition.

Mr. Sharma, learned advocate representing the respondent Income Tax Authority could not produce any documents in denial of the aforesaid allegation of the petitioner that neither any copy of evidence nor any document was provided to the petitioner nor the petitioner was afforded opportunity to cross-examine the persons who have made deposition against the petitioner.

Considering the facts and circumstances of the case as appears from record and submissions of the parties, this writ petition being WPO 1180 of 2023 is disposed of by setting aside the aforesaid impugned order under Section 148A(d) of the Act and subsequent notice under Section 148 of the Act and the matter is remanded back to the assessing officer concerned to pass fresh order after considering the request of the petitioner made in paragraphs 6,7 and 9 of its letter dated 28th March, 2023, in accordance with law and by observing principles of natural justice and to conclude the proceeding and pass final assessment order within a period of twelve weeks from the date of communication of this order.

With these observations and directions, this writ petition stands disposed of.

(MD. NIZAMUDDIN, J.)

TR/