OD –18

ORDER SHEET
WPO/1282/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

ELEXI CONSULTANCY SERVICES PRIVATE LIMITED
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 27th June, 2023.

Appearance:
Mr. A.K. Upadhyay, Adv.
Mrs. Sobha Upadhyay, Adv.
...For the Petitioner
Mr. Tilok Mitra, Adv.
...For the Respondents

The Court: Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 24th April, 2023 under Section 148A(d) of the Income Tax Act, 1961 relating to assessment year 2016-17 on the ground of violation of principles of natural justice and the order being non-speaking order by not considering the petitioner's request for furnishing certain document and for providing opportunity of personal hearing by its letter/objection to the notice under Section 148A(b) of the Act filed before the assessing officer on 14th April, 2023.

I have perused the aforesaid impugned order from which it appears that nowhere the assessing officer has said anything or referred about petitioner's request for providing the document asked for by its letter dated 14th April, 2023 or for opportunity of personal hearing.

Considering the facts and circumstances of the case and submission of the parties and in view of violation of principles of natural justice and the impugned order being non-speaking order to the extent that in spite of specific request made by the petitioner neither any opportunity of personal hearing was provided to the petitioner nor the documents asked for were furnished to the petitioner nor the assessing officer in its impugned order has recorded as to why opportunity of hearing could not be granted or as to why those documents asked for by the petitioner would not be supplied or that those documents have no relevance for passing the aforesaid impugned order, this writ petition being WPO 1282 of 2023 is disposed of by setting aside the aforesaid impugned order dated 24th April, 2023 and all subsequent proceedings and the matter is remanded back to the assessing officer to pass fresh order under Section 148A(d) of the Act after considering the petitioner's letter/objection dated 14th April, 2023 on the issue of providing documents asked for and for providing opportunity of personal hearing to the petitioner. Final order under Section 148A(d) of the Act shall be passed within a period of twelve weeks from the date of communication of this order.

(MD. NIZAMUDDIN, J.)

TR/