OD-3

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO/87/2023
IA NO: GA/1/2023
PARWANI TRADERS PRIVATE LIMITED
-Versus-
UNION OF INDIA & ORS.

BEFORE:
The Hon'ble T.S. SIVAGNANAM, CHIEF JUSTICE
-And-
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA
Date : 13th October, 2023

Appearance :
Mr. Avra Majumder, Adv.
Mr. Brijesh Kumar Singh, Adv.
Mr. Om Prakash Prasad, Adv.
Mr. Samrat Das, Adv.
Ms. Elina Dey, Adv.
..for the appellant

Mr. Vipul Kundalia, Adv.
Ms. Aditi Singhania, Adv.
… for the respondents

The Court : This intra-court appeal by the writ petitioner is directed against the order dated 12th June, 2023 in WPO No. 1133 of 2023. In the said writ petition, the appellant had challenged the order dated 19th April, 2022 passed under Section 148A(d) of the Income Tax Act, 1961 (the Act) for the assessment year 2018-19. The Learned Single Judge has dismissed the writ petition.

After we have elaborately heard the learned Advocates for the parties, we find that the assessee did not file a reply to the notice issued under Section 148A(b) of the Act though sufficient time was granted. In fact, the assessee requested for an adjournment upto first week of April, 2022, which request was considered and the matter was fixed on 12th April, 2022. On the said date, the assessee did not submit their reply nor submitted any supporting documents and therefore the Assessing Officer proceeded to hold that it is a fit case to issue notice under Section 148 of the Act.

Considering the grounds which have been canvassed in the writ petition and before us stating that no approval has been obtained from the competent authority and apart from that the matter has to be dealt with by the Faceless Assessment Centre, we are of the view that one more opportunity can be granted to the assessee to put-forth their submissions before the Assessing Officer.

For the above reason, the order passed under Section 148A(d) of the Act dated 19th April, 2022 is directed to be treated as a notice under Section 148A(b) of the Act and the assessee is directed to submit their reply/objection within 30(thirty) days from the date of receipt of the server copy of this order along with supporting documents. Upon submission of the reply/objection along with supporting documents, the Assessing Officer shall afford an opportunity of personal hearing and thereafter proceed to pass fresh order on merits and in accordance with law.

Since the matter is remanded back to the Assessing Officer, the time spent for the litigation cannot be taken advantage of by the assessee for the purpose of computation of limitation.

The appeal along with the application is accordingly disposed of.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

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AR(CR)