OD –1

ORDER SHEET

WPO/3274/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SHREE WARIS PIYA STEEL COMPANY PRIVATE LIMITED
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 16th January, 2023.

Appearance:
Mr. Subash Agarwal, Adv.
Mr. Brijesh Kumar Singh, Adv.
...For the Petitioner

Mr. S. Roy Chowdhury, Adv.
Mr. Soumen Bhattacharjee, Adv.
...For the Revenue

The Court: Pursuant to the order of this Court dated 6th January, 2023, both ITO and CIT concerned are personally present and convey their explanation for not sending the appropriate instruction to the appearing counsel and submit that such lapse was unintentional and pray for condonation of the same.

Considering such explanation such lapse is condoned with a warning that in future if such type of lapses are committed, in that event this Court will take serious view including putting such conduct on their service record. Their personal appearances are dispensed with.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned assessment order dated 26th September, 2022, under Section 143(3) read with Section 144B of the Income Tax Act, 1961, relating to assessment year 2020-21 on the ground that the same is in non-application of mind and is perverse in recording that no reply to the show-cause notice was filed by the petitioner till the date of passing of impugned order. The aforesaid impugned order does not have any reference about the petitioner's application for adjournment made on 14th September, 2022 as appears at page 106 of the writ petition as well as reply to the show cause notice at the email address of the petitioner on 23rd September, 2022 as appears at page 111 of the writ petition.

Mr. Roy Chowdhury, learned advocate representing the respondent Income Tax Authority could not satisfy with record denying the aforesaid allegation of the petitioner about the filing of aforesaid adjournment petition and reply to the show cause notice.

Writ Court is very reluctant to interfere with the assessment order under Section 143(3) of the Income Tax Act 1961 but in view of the exceptional circumstances as indicated hereinabove, this Court is inclined to interfere with the impugned assessment order.

Considering the facts and circumstances of this case as appears from record and submission of the parties, this writ petition being WPO 3274 of 2022 is disposed of by setting aside the impugned order dated 26th September, 2022 and the matter is remanded back to the assessing officer concerned to pass a fresh speaking order in accordance with law after giving opportunity of hearing to the petitioner or its authorised representative and after taking into consideration the aforesaid reply against the show-cause notice dated 23rd September, 2022, within a period of eight weeks from the date of communication of this order.

(MD. NIZAMUDDIN, J.)

TR/