24.09.2024
Item No.4
gd/ssd

MAT/51/2023
IA NO: CAN/1/2023, CAN/2/2023

TERAI FARMERS AGRI FEDARATION AND ANR.
VS
UNION OF INDIA AND ORS.

Ms. Sutapa Roychoudhury,
Ms. Aratrika Roy
..for the Appellants.

Mr. Om Narayan Rai,
Mr. Aayush Sharma
..for the Respondents.

1. This intra court appeal by the unsuccessful writ petitioners are directed against the order dated 29th November, 2022 in WPA 24760 of 2022.

2. In the said writ petition the appellants had challenged the assessment order passed under Section 143(3) of the Income Tax Act, 1961 (the Act) on the ground that no copy of the draft assessment was served upon the appellants/assessee before passing the impugned assessment order.

3. The department was able to demonstrate before the learned Single Bench that the formalities required to be complied with under Section 144B(7)(ii)(a) has been complied with.

4. Furthermore, we find that the communication has been sent to an e-mail ID, namely, nabamanna@gmail.com. Obviously unless and until the assessee has furnished this e-mail ID, the department will not communicate the same to the said e-mail ID.

5. The learned advocate appearing for the respondent/department submitted that in addition to the e-mail communication, SMS is also sent to the assessee. In any event these are the disputed question of facts, the assessee should adjudicate by filing a regular appeal as provided under the Act and not bypassing the same.

6. It is well open to the appellate authority to verify as to whether the draft assessment order was sent to the registered e-mail ID and whether the appellants were denied opportunity to put forth the submission. All these issues will be considered by the appellate authority.

7. Thus, we find no grounds to interfere with the impugned order.

8. Accordingly, the appeal stands dismissed.

9. The appellants are granted liberty to file a regular appeal as against the assessment order before the appellate authority within a period of 30 days from the date of receipt of the server copy of this order and if the same is filed, the appeal shall not be rejected on the

ground of limitation but shall be heard and decided on merits after an opportunity to the appellants.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(BIVAS PATTANAYAK, J.)