21.03.2024
Sl no. 16
Ct no. 2
P.M.

WPA 5259 OF 2024

Saritha Constructions
- **Vs** -
National Faceless Assessment Centre & Ors.

Mr. Avra Mazumder,
Mr. Kausheyo Roy,
Mr. Suman Bhowmik,
Ms. Alisha Das,
Mr. Samrat Das,
Ms. Elina Dey
... for the petitioner

Mr. Tilak Mitra
... for the respondents

Heard learned advocates appearing for the parties.

By this writ petition petitioner has challenged the impugned order dated 13th February, 2024, under Section 147 read with Section 144/144B of the Income Tax Act, 1961 relating to assessment year 2019-2020 on the ground that the same has been passed in violation of principle of natural justice and that the same is a non-speaking order.

Petitioner submits that before passing the impugned assessment order petitioner was asked to give reply or response to the show-cause notice under Section 148 of the Act dated 10th October, 2023 and in response to the same petitioner filed a very detailed reply on 31st January, 2024 raising therein several issues with supporting documents, but the same has neither been considered nor discussed in the aforesaid impugned assessment order.

Though the aforesaid impugned assessment order is appellable order under the statute and the Writ Court is generally reluctant to interfere with any appellable assessment order, but in the facts and circumstances of this case as appears from record particularly from the impugned assessment order it appears that there is simply reference of the aforesaid reply of the petitioner, but the same has neither been discussed nor dealt with which according to the petitioner are very relevant and that the impugned assessment order is a non-speaking order on the issues raised by it in its aforesaid reply.

It is well settled principle of law that passing of speaking order by an authority is a part of natural justice.

In view of such exceptional circumstances that the impugned order does not deal or discuss with the detailed reply submitted by the petitioner raising several issues with supporting documents and the same have not been considered or discussed, the impugned assessment order warrants interference by this writ Court.

Accordingly the impugned assessment order dated 13th February, 2024 is set aside and the matter is remanded back to the Assessing officer concerned to pass fresh assessment order by passing a reasoned and speaking order after considering the issues raised by the petitioner in its reply dated 31st January 2024, within a period of eight weeks from the date of communication of this order.

It is clarified that no unnecessary adjournments shall be granted by the Assessing Officer.

It is also clarified that this Court has not gone into the merit of the aforesaid reply filed by the petitioner and the same shall be considered by the assessing officer in accordance with law and by applying his independent judicious mind.

It is needless to mention that while passing the fresh assessment order principle of natural justice shall be observed by the Assessing Officer.

With this observation and direction this writ petition being WPA 5259 of 2024 is disposed of.

(Md. Nizamuddin, J.)