Form No. J.(2)
Item No.7

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

HEARD ON: 21.05.2024
DELIVERED ON:21.05.2024

CORAM:
THE HON'BLE MR. CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

M.A.T. 593 of 2024
With
IA No. CAN 2 of 2024
Indra Bajoria
Vs.
Income Tax Officer, Ward 3(1), Bankura & Ors.

Appearance:-

Mr. Avra Mazumder
Mr. Kausheyo Ray
Ms. Alisha Das
Ms. E. Dey .... **For the Appellant**

Mr. Prithu Dudhoria
.....**For the respondents**

<u>JUDGMENT</u>

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. We have heard the learned advocates for the parties.

2. This intra-Court appeal is directed by the writ petitioner against an order passed by the learned Single Bench refusing to interfere with the impugned assessment order dated 28^{th} March, 2023.

3. The only ground on which the assessment order was challenged is by contending that it was passed in violation of principles of natural justice, inasmuch as the reply given by the assessee to the show-cause notice as uploaded by the assessee on 23^{rd} March, 2023 was not considered. In the assessment order in paragraph 4.3, the Assessing Officer states that the assessee did not comply with the direction issued in the show-cause notice.

4. This appears to be factually incorrect, since the assessee has uploaded his reply on 23rd March, 2023.
5. Therefore, we are satisfied that there has been violation of principles of natural justice.
6. For the above reasons, the appeal along with the connected application (IA No. CAN 2 of 2024) are allowed and the assessment order impugned in the writ petition is set aside and the matter is remanded back to the assessing officer for fresh consideration.
7. The Assessing Officer is directed to take note of the reply given by the assessee dated 23rd March, 2023 and afford an opportunity of personal hearing in which the assessee shall afford an opportunity to place all documents and after considering the contentions, a fresh assessment order be drawn with adequate reasons and in accordance with law.
8. It is made clear that this Court has not gone into the merits of the matter and it is for the assessing officer to draw a conclusion.
9. No costs.
10. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(HIRANMAY BHATTACHARYYA, J.)

S. Banerjee/KS AR(Ct.)