01.07.2024
Item No.
ML-11
Court No.5
Saswata

W.P.A. 11884 of 2024

Nazirpur Large Sized Multipurpose Co-op Society Ltd. & Anr.
Versus
Union of India & Ors.

Mr. Himangshu Kumar Ray
Mr. Amit Saha
...For the petitioners
Mr. Prithu Dudhoria
...For the respondents

1. The present writ petition has been filed, inter alia, calling upon the respondents to recall and/or cancel the demand notice dated 19th March 2024 issued under Section 156 of the Income Tax Act, 1961 (hereinafter referred to as the "said Act") for the assessment year 2015-16.
2. It is the petitioners' case that sometimes on 17th March 2022 the petitioner no.1 was served with a notice under Section 148A(b) of the said Act calling upon the petitioner no.1 to furnish response in respect of the financial transactions made by the petitioner no.1 during the relevant financial year 2014-15. The said proceedings ultimately culminated in an order dated 4th April 2022 issued under Section 148A(d) of the said Act. The same was followed by a notice issued under Section 148 of the said Act dated 4th April 2022 and a notice

under Section 143(2) of the said Act dated 2nd May 2023.

3. A further notice under Section 142(1) of the said Act was issued on 19th October 2023 in respect of the assessment year 2015-16 seeking further information and particulars. The petitioner no.1 after seeking adjournments had duly responded to the same. Ultimately, the aforesaid proceedings culminated in the assessment order issued under Section 147 read with Section 144B of the said Act dated 19th March 2024 in respect of the assessment year 2015-16. From the assessment order it would appear that the petitioner no.1 had been able to sufficiently explain their transactions and the faceless assessment unit had categorically recorded that in view of the disclosure made by the petitioner no.1 and the explanation offered, there is no adverse inference drawn in the case and the return filed by the assessees/petitioner no.1 is accepted. Consequentially, the recomputed return was assessed at Rupees Zero.

4. It, however, appears that despite assessing the recomputed income to be Rupees Zero under Section 147 read with Section 144B of the said Act, the Faceless Assessment Unit had directed issuance of a demand notice under Section 156 of the said Act. It also appears that pursuant to the

aforesaid direction, the Faceless Assessment Unit, by a notice dated 19th March 2024 issued under Section 156 of the said Act, had demanded a sum of Rs.4,06,122/- for the assessment year 2015-16 by computing the same towards differential amount of tax payable by the petitioner no.1, inclusive of interest.

5. Since, the aforesaid demand prima facie appeared to be contrary to the assessment order and is not sustainable, when the aforesaid matter had come up for consideration on 16th May 2024, having regard to the controversy involved, the respondents were directed to take appropriate instructions in this matter.

6. Today, Mr. Dudhoria, learned advocate appearing for the respondents acknowledges the fact that in the instant case the assessment order dated 19th March 2024 issued under Section 147 read with Section 144B of the said Act, had been passed by recomputing total income as per the Income Tax Return filed by the petitioner no.1 as Rupees Zero. He submits that by reasons of technical glitches, the demand notice dated 19th March 2024 had been issued, no demand can be raised contrary to the assessment order.

7. Having heard the learned advocates for the parties and having considered the materials on record, in

my view once, the Faceless Assessment Unit, after taking into consideration all aspects, *inter alia*, including explanation given by the petitioner no.1, had concluded that no adverse inference can be drawn in the case and had accordingly accepted the income, as filed in the Income Tax Return as Rupees Zero, no demand on the basis thereof could have been raised by the respondents. Thus, the purported notice issued under Section 156 of the said Act dated 19th March 2024 had been issued mechanically, without taking note of the assessment order. The purported computation sheet appended to the demand notice is also contrary to the assessment order dated 19th March 2024.

8. In view thereof, to the aforesaid demand notice dated 19th March 2024 for the assessment year 2015-16, PAN AAAAN7255P cannot be sustained and the same is accordingly quashed.

9. With the above directions and observations the writ petition being WPA 11884 of 2024 is **disposed of** without any order as to costs.

10. All parties to act on the basis of the server copy of this order duly downloaded from this Court's official website.

(*Raja Basu Chowdhury, J.*)