16.01.2024
Item No.03
RP/AN
Ct. No.1

MAT 958 of 2023
+
IA No.CAN 1 of 2023

Amar Kumar Burnwal
Vs.
Deputy Director of Income Tax (Investigation), Unit-6(2), Aayakar Bhawan Poorva & Ors.

Mr. Rites Goel
.....for the Appellant

1. This intra-Court appeal preferred by the writ petitioner is directed against the order dated 26th April, 2023 passed in WPA 6902 of 2023. The appellant had challenged an order passed by the Assessing Officer dated 4th January, 2023 on various grounds and in particular that the order is in clear violation of the principles of natural justice. The learned Single Bench without going into the merits of the matter was satisfied that there has been violation of principle of natural justice inasmuch as the appellant/writ petitioner was not afforded an opportunity of personal hearing before the order was passed. Therefore, the order was set aside and the matter was remanded back to the Assessing Officer, to pass a fresh order in accordance with law by giving reasons and after

giving an opportunity of personal hearing to the writ petitioner.

2. The learned advocate appearing for the appellant would contend that the order could not have been passed on account of expiry of the time limit under the statute. As could be seen from the impugned order passed by the learned Single Bench that merit of the matter has not been gone into and only on the ground of violation of principle of natural justice the order has been set aside. Therefore, while affirming the order passed by the learned Single Bench we clarify that it will be open to the writ petitioner to canvass all points including the point of commencement of de novo proceeding before the Assessing Officer.

3. With the above observation, the appeal and the connected application are disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)