WPA 18409 OF 2023

05.02.2024
Sl no. 2
Ct no. 2
P.M.

Gee Bee Nirman Co. Private Limited
- Vs -
Income Tax Officer, Ward – 5(1), Kolkata & Ors.

Mr. Avra Mazumder,
Mr. Kausheyo Roy,
Mr. Samrat Das
... For the Petitioner.
Mr. Aryak Dutt
... For the respondents.

Heard learned advocates appearing for the parties.

By this writ petition petitioner has challenged the impugned assessment order under Section 147 read with Section 144B of the Income Tax Act, 1961 dated 27th May, 2023 relating to assessment year 2018-2019 on the ground of violation of principle of natural justice by not providing the petitioner the documents upon which the Assessing Officer has relied in passing the adverse impugned assessment order against the petitioner by recording that the bank account of lender from whom the petitioner has taken the loan did not establish the credit worthiness of the lender third party and the genuineness of the said transaction and by further recording that the bank account of the lender does not support the credibility of the lender.

It is the case of the petitioner that the documents pertained to the third party/lender on the basis of which assessing officer came to the aforesaid conclusion that the said third party has no credit worthiness, were not furnished to the petitioner.

Mr. Dutt, learned advocate representing the respondent Income Tax authority is not in a position to satisfy this Court on the allegation of the petitioner that the material/document on the basis of which Assessing Officer has come to the conclusion that the lender/third party had no credit worthiness, were furnished to the petitioner. Generally this Court is very reluctant to interfere with the assessment order under Section 143(3) of the Act since it is an appellable order under the statute, before CIT (appeals), but in view of exceptional facts and circumstances of this case as recorded herein above and involvement of violation of principle of natural justice, I am inclined to interfere with the aforesaid impugned assessment order and accordingly this writ petition being WPA 18409 of 2023 is disposed of by setting aside the impugned assessment order dated 27th May, 2023 and by remanding the matter back to the assessing officer concerned to pass a fresh assessment order in accordance with law and by passing a reasoned and speaking order after furnishing the documents/materials on the basis of which assessing officer came to the conclusion in the impugned assessment order that the lender of the petitioner has no credit worthiness, within a period of eight weeks from the date of communication of this order.

(Md. Nizamuddin, J.)