

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

HEARD ON: 02.01.2024

DELIVERED ON: 02.01.2024

CORAM:
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE SUPRATIM BHATTACHARYA
M.A.T. 1695 of 2023
Ashok Kumar Jha
Vs.
Income Tax Officer, Ward No. 13(1),
Kolkata & Ors.

Appearance:-

Mr. Avra Mazumder
Mr. Suman Bhowmik
Mr. Kausheyo Roy
Mr. Samrat Das
Ms. Elina Dey

.....for the appellant

Mr. Prithu Dudhoria

.....for the respondents

JUDGMENT

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

1. This intra-Court appeal by the writ petitioner is directed against the order dated 5th June, 2023 in W.P.A. 8608 of 2023 by which the learned Single Bench declined to grant interim order and directed the respondents/department to file their affidavit-in-opposition within four weeks and the appellant was permitted to file his reply within two weeks

thereafter and the matter was directed to be listed in the monthly list of August, 2023.

2. We are informed by the learned advocate for the appellant that till date the department has not filed their affidavit-in-opposition, though four weeks time was granted in the order dated 5th June, 2023. Thus, we are of the view that if during the pendency of the writ petition, without complying with the direction issued by the learned writ Court and without filing an affidavit-in-opposition, if the department proceeded to pass a re-assessment order, then the challenge to the proceedings initiated under section 148A(d) of the Income Tax Act, 1961 may become infructuous.
3. Therefore, we direct that the respondents/department shall not pass the re-assessment order till the writ petition is heard. The time for filing affidavit- in-opposition as granted by the learned writ Court is extended by a period of four weeks from date; reply, thereto, if any, may be filed within a week thereafter and the writ petition be listed before the appropriate bench on 6th February, 2024.
4. With the above observations and direction, the appeal stands disposed of.
5. No costs.
6. 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.

(SUPRATIM BHATTACHARYA, J.)

Pallab/KS AR(Ct.)