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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO/122/2023
IA NO: GA/1/2023
SAFEX COMPLEX PRIVATE LIMITED
VS
UNION OF INDIA AND ORS.

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE SUPRATIM BHATTACHARYA
DATE : 8TH January, 2024.

Appearance :
Mr. Subhas Agarwal, Adv.
Mr. Nitish Bhandary, Adv.
..for appellant
Mr. Prithu Dudhoria, Adv.
...for respondents

The Court :- This intra-Court appeal by the writ petitioner is directed against the order dated 20th July, 2023 in WPO No. 1288 of 2023. The appellant had filed the said writ petition challenging the order passed under Section 148A(d) of Income Tax Act, 1961 (the Act) dated 24th April, 2023. The principal ground on which the order was challenged is alleging violation of principles of natural justice, inasmuch as, the information and documents sought for by the assessee by their submission dated 31st March, 2023 was not furnished to the assessee. It appears that when the writ petition was heard learned Standing Counsel for department was directed to produce certain documents which the learned Single Bench has recorded that the learned standing Counsel has produced and has come to the conclusion that the assessee entered into a transaction with M/s. Quetzal Exim Pvt. Ltd. As could be seen from the submission dated 31st March, 2023, the assessee had taken a specific stand that they have not received any amount from M/s. Quetzal Exim Pvt. Ltd. during the financial year 2018-

19 and in case any information is available with the department the assessee requested to supply the basis of such information along with document in order to justify the information. Furthermore, the assessee pointed out that a notice under Section 148 has already been issued for the assessment year 2018-19. A copy of the same was attached to the submission dated 31.03.2023.

In our view, the conclusion cannot be arrived at by examining the documents, which have been produced during the course of hearing of the writ petition that too not supported by any affidavit. Therefore, the proper course is to send back the matter to the assessing officer to redo the exercises and by furnishing the requisite documents and information to the appellant and thereafter to proceed afresh in accordance with law.

For the above reason, the appeal is allowed.

Consequently, the order passed in the writ petition is set aside and the writ petition is allowed and the order passed under Section 148A(d) dated 20.4.2023 and the consequential notice issued under Section 148 is set aside and the matter stands remanded back to the assessing officer with a direction to the assessing officer to furnish the requisite information and documents sought for by the appellant, as also afford a further opportunity to submit a reply and thereafter take a fresh decision in accordance with law.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(SUPRATIM BHATTACHARYA,J.)

pkd/GH.