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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 10533 of 2025

Rakesh Kumar Kanodia
Versus
Union of India & Ors.

Mr. Avra Mazumder
Ms. Alisha Das
Mr. Suman Bhowmik
Ms. Elina Dey
... For the petitioner.

Mr. Amit Sharma
Mr. Abhishek Kumar Agrahari
... For the respondents.

1. The instant writ petition has been filed, inter alia, challenging the assessment order passed under Section 143(3) read with Section 144B of the Income Tax Act, 1961 (hereinafter referred to as the "said Act"), dated 22nd March, 2025 in respect of the Assessment Year 2023-24 on the ground that the notice issued under Section 143(2) dated 19th June, 2024 of the said Act does not comply with the Faceless Assessment Scheme 2019 (hereinafter referred to as the said scheme), published in exercise of power conferred under sub-section (3A) of Section 143 of the said Act.

2. Ms. Dey, learned advocate appearing in support of the aforesaid writ petition by dawning attention of this Court to the notice issued under Section 143(2) of the said Act and paragraph 5 of the said scheme would

submit that the National E-Assessment Centre was obliged to serve a notice on the assessee under sub-section (2) of Section 143 specifying the issues for selection of the case for assessment. According to her, in absence of such disclosure the entire assessment proceeding is *non-est* and cannot be enforced against the petitioner. Further, the notice issued under Section 143(2) of the said Act also does not conform to the form for issuance of such notice.

3. Having heard the learned advocates appearing for the respective parties, I find that the petitioner had duly responded to the notice under Section 143(2) of the said Act. Further a notice under Section 142(1) of the said Act dated 8th October, 2024 was issued in respect of the relevant Assessment Year. In response to such notice, the petitioner had never raised the aforesaid issue. On the contrary, the petitioner had complied with such notice. Independent of the aforesaid, I must also note that the petitioner is also attacking the assessment order on the ground that the documents disclosed by the petitioner in response to the notice issued under Section 142(1) of the said Act has not been dealt with. Although, the petitioner has attempted to make out a case that in absence of disclosure as aforesaid, the notice issued under Section 143(2) of the said Act, cannot be said to comply with the Faceless Assessment Scheme, the said notice is non-starter, I, however, note that the aforesaid issue was never raised by the petitioner contemporaneously. This

apart, the petitioner has a remedy in the form of an appeal. As such, without deciding the issue raised by the petitioner, I am of the view that it shall be prudent to permit the petitioner to prefer an appeal before the appellate authority especially when a specific remedy has been provided therefor. In the interregnum, the time to file appeal has expired. The writ petition has been pending before this Court since 7th May, 2025.

4. Having regard thereto, in the event, the petitioner prefers an appeal within a period of four weeks from date, the appellate authority having regard to the observation made herein shall decide the appeal on merits in accordance with law. All points raised by the petitioner are, however, kept open to be raised before the appellate authority.

5. With the above observations and directions, the writ petition is disposed of.

Urgent Photostat certified copy of this order, if applied for be given to the parties upon compliance with the requisite formalities.

(Raja Basu Chowdhury, J.)