OD- 8

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE.

WPO/696/2025

CHANDRA PRAKASH BATHWAL
VS
UNION OF INDIA AND ORS.

BEFORE
THE HON'BLE JUSTICE RAJA BASU CHOWDHURY
Date: 25TH SEPTEMBER, 2025

Appearance :
Ms. Micky Chowdhury Adv.
…for petitioner
Mr. Tilak Mitra, Adv.
Mr. Amit Sharma, Adv.
Mr. Abhishek Kumar Agrahari, Adv.
….for respondents

1. Challenging two several assessment orders for the assessment year 2017-18 and 2020-21 both dated 11th March, 2025, two several appeals under Section 246 of the Income Tax Act, 1961 (hereinafter referred to as 'the said Act') have been filed for the assessment year 2017-18 on 25th March, 2025 and for the assessment year 2020-21 on 29th March, 2025. Pending disposal of such appeals, the petitioner applied before the jurisdictional assessing officer under Section 220 Sub-section 6 of the said Act for treating the petitioner not in default in respect of the amount in dispute in the appeals. Such petition was disposed of by the order impugned.
2. The petitioner would contend that the decision in this regard was taken without giving opportunity of hearing to the petitioner.
3. Mr. Mitra, learned Advocate representing the respondents would submit that admittedly the petitioner has not made any payment and, as such, there is no irregularity in the order.
4. Heard learned Advocates appearing for the respective parties. I am of the view that the Section 220 Sub-section 6 itself recognizes the right of an assessee not to be treated in default notwithstanding the time for making

payment having expired. Admittedly, the appeals are pending. Having regard thereto, I am of the view that the petitioner was well within his rights to maintain an application under Section 220 Sub-section 6 of the Act. It was for the jurisdictional assessing officer to decide on the same. Though a decision has been rendered by the jurisdictional assessing officer, the same has been done without giving an opportunity of hearing to the petitioner. Thus, on the grounds of violation of principles of natural justice, the aforesaid order is set aside with a direction upon the jurisdictional assessing officer to hear out the petitioner by giving an opportunity of hearing to the petitioner and to decide the petitioner's application within a period of six weeks from the date of communication of this order.

5. It is made clear that this Court has not gone into the merits of the petitioner's application and it shall be for the jurisdictional assessing officer to take a decision thereon.

6. The writ petition is thus disposed of.

(RAJA BASU CHOWDHURY, J.)

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