21.05.2026
Item No.07
Ct. No. 10
BR

WPA 19538 of 2025
Pinnacle Enterprises Pvt. Ltd. And anr.
-vs-
Assistant Commissioner of Income Tax-2, Central Circle 4(1), Kolkata and another

Mr. Himangshu Kumar Ray,
Mr. S. Bagaria,
Mr. Subhasis Podder,
Ms. Shiwani Shaw,
Mr. Animitra Roy
.... For the petitioner
Mr. Siddhartha Lahiri,
Mr. Amit Sharma,
Mr. Debraj Dutta
... for the respondent

1. Pursuant to the order dated 19.5.2026, this matter has been directed to appear in the list for consideration to enable the petitioner to distinguish the judgment relied upon by the respondent authorities.

2. The petitioner's main grievance is with regard to non-consideration of the plea for a personal hearing which has been raised in response to the show cause notice prior to the passing of the order dated 28th June, 2025 passed under Section 148A(3) of the said Act.

3. The petitioner, on various occasions, prayed for personal hearing in order to substantiate the anomalies shown in the show cause notice. Despite such requests being made, the Assessing Officer has passed the impugned order dated

28.06.2025 under Section 148A (3) of the said Act without granting any opportunity of personal hearing.

4. An Order dated 28.06.2025 passed under Section 148A(3) of the said Act without granting any opportunity of personal hearing. As pointed by the petitioner that the Notice dated 27.03.2025 is not a notice of personal hearing. Therefore, the authority, while passing the order impugned in the writ Petition, has violated the principles of natural justice inasmuch as the statute provides that opportunity be granted to the assessee before the assessment is reopened.

5. Having heard the parties and considering the submissions already recorded in the Order dated 19.05.2026, this court is of the view that the petitioner has been able to make out a prima facie case since non-granting of personal hearing is the gross and flagrant of violation of natural justice.

6. The Division Bench of this Court has been pleased to observe on the principles of personal hearing in the case of Nitin Agarwal Vs Income Tax Officer Ward 4(6)(1) Kolkata and Others reported in 2024 (1) TMI 754 Calcutta High Court in paragraph 3 which is reproduced hereunder.

> *"3. Once again , the assessee sought for the relevant documents and liberty to file an additional objection. The reply given by the assessee on 12.04.23 has not been taken into account in the manner it should have been done , though the assessing officer refers to the said reply in pages 3 and 4 of the order dated 13.4.23. As pointed out earlier , the notice dated 27.3.23 is not a notice of personal hearing. Therefore , the authority while passing the order impugned in the writ petition has violated and principles of natural justice and inasmuch as the statute also provided that opportunity be granted to the assessee before an assessment is reopened. Therefore, we are satisfied that there has been violation of principles of natural justice and, therefore, the assessee has to be provided an opportunity of personal hearing and also be given liberty to furnish additional documents to support their stand. For the above reasons, the order impugned in the writ petition dated 13.4.23 passed under section 148A(d) of the Act is directed to be treated as a notice under Section 148A(b) of the Act and assessee be directed to file further objection along with supporting documents and on receipt of the further objection and supporting documents , the assessing officer is directed to fix a date for personal hearing to hear the authorized representative of the assessee and pass fresh orders on merits and in accordance with law. The assessee is directed to file their reply within a period of 30(thirty) days from the date of receipt of the server copy of this order."*

7. In light of the order of the Division Bench dated 13.10.2023 on principles of natural justice and the aforesaid CBDT Guidelines, the order passed under Section 148A(d) along with the notice issued under Section 148 are hereby quashed and set aside.

8. The matter is remanded back to the respondent No. 4, being the Assessing Officer, to pass a fresh Order under 148A(d) after granting a personal hearing to the petitioner on 03.06.2026 at 12 noon. After duly considering the reply and the documents filed by the petitioner, the respondent No. 4 shall pass a reasoned order in accordance with law and communicate such decision within a week thereafter.

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

10. Since the affidavits have not been invited, the allegations contained in the writ petition are deemed not to be admitted.

11. However, it is made clear that if the petitioner fails to represent before the authority concerned on the date mentioned, the respondent no. 4 shall be at liberty to take necessary steps in accordance with law.

12. It is further made clear that in course of hearing, if further documents are required to be furnished, the respondent No. 4 shall permit the petitioner to file a comprehensive reply in order to substantiate the issues involved for reopening the assessment.

(Smita Das De, J.)