

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
(ORIGINAL SIDE)**

**Present:
The Hon'ble Justice Smita Das De**

**WPO 212 of 2026
IA NO: GA/1/2026, GA/2/2026**

**Pricewaterhouse Coopers Private Limited
-Vs-
Assistant Commissioner of Income Tax, Circle-1(1)
Aayakar Bhawan & Ors.**

For the Petitioner : **Mr. Aditya Vohra, Adv. (VC)**
: **Mr. Indranil Banerjee, Adv.**
: **Mr. Subrata Mukherjee, Adv.,**

For the Income Tax Authorities : **Mr. Soumen Bhattacharjee, Adv.**
: **Mr. Anurag Roy, Adv.**
: **Mr. Ankan Das, Adv.**
: **Ms. Shradhya Ghosh, Adv.**

Reserved on : **21/05/2026**
Judgment on : **25/06/2026**

Smita Das De, J.:-

1. The instant writ petition has been filed challenging inter alia, the Assessment Order dated March 30, 2026 passed under Section 143(3) of the Income Tax Act, 1961 for the assessment year 2024-25, along with consequential demand & penalty proceedings, inter alia, on the grounds of gross violation of principles of natural justice and the absence of an effective opportunity of hearing.
2. Apropos the facts of the case, is that the Petitioner herein is a consultancy company, and respondent no 1 is the Jurisdictional

Assessing Officer (hereinafter referred to as the 'JAO') of the petitioner. Respondent no 2 is the Assessment Unit of the National Faceless Assessment Centre(NFAC), New Delhi which conducted the assessment proceedings of the petitioner upto December 22, 2025 and the respondent no 3 is the Union of India.

- 3.** On November 29, 2024 the petitioner filed its return of income electronically under Section 139(1) of the Income Tax Act, 1961 on declaring a loss of Rs 52,27,57,732/-.
- 4.** On January 28,2025 the return of income has been processed under Section 143(1) of the Income Tax Act,1961 by the Centralized Processing Centre, Bengaluru resulting in a refund of Rs 134,29,45,540/-. Subsequently, on June 3,2025 the petitioner further modified its return of income declaring a loss of Rs 42,51,35,850/-.
- 5.** On June 24, 2025 the case of the petitioner has been selected for scrutiny assessment pursuant to a notice issued under Section 143(2) of the Income Tax Act, 1961 by the respondent no 2, namely the Assessment Unit of National Faceless Assessment Centre (NFAC).Pursuant thereto, the petitioner furnished the requisite preliminary details along with supporting documents vide reply dated July 9, 2025 and July 11, 2025.
- 6.** On July 29, 2025 and November 21, 2025, NFAC issued notices under Section 142(1) of the said Act, to which the petitioner duly responded on August 18, 2025 and December 16, 2025 respectively.
- 7.** On December 22,2025, the case has been transferred from respondent no 2 to respondent no 1. Thereafter, respondent no 1 issued further

notices under Section 142(1) on January 27,2026 and March 6,2026 respectively calling for additional details and documents. In response thereto, the petitioner filed its reply on March13, 2026.

- 8.** On March12, 2026, respondent no 1 issued a notice under Section 142(1) of the Income Tax Act. The Petitioner duly responded thereto on March 19, 2026 and further filed two replies on March 25, 2026.
- 9.** The petitioner has been served with the show cause notice dated March 28, 2026 issued by respondent no 1, wherein it has been stated that information has been received from the office of the DCIT, Central Circle-3, Hyderabad, allegedly implicating the petitioner's involvement in acquisition of KSK Energy Ventures Ltd by Gland Celsius Bio Chemicals Pvt Ltd.
- 10.** By way of the said notice, respondent no 1 sought an explanation from the petitioner as to whether it had rendered any consultancy, professional or advisory services in furtherance of the scheme of acquisition and whether any fees or remuneration had been received by it from the entities in lieu of the services. Respondent no 1 further directed the petitioner to furnish relevant supporting documents. The petitioner has been called upon to submit its reply to the show cause notice on or before March 30, 2026.
- 11.** On March 30, 2026 the petitioner duly complied with the show cause notice by furnishing the requisite details and explanations. On the same day i.e March 30, 2026 the Respondent no 1 proceeded to pass the Impugned Assessment Order raising a substantial demand of Rs

87,20,87,760 without affording any reasonable time or opportunity to the petitioner for a proper hearing .

12. Being aggrieved by the Assessment Order dated March 30, 2026 passed under Section 143(3) of the Income Tax Act, 1961 for the assessment year 2024-2025 by the respondent authority the petitioner has filed this instant writ petition.

Contention of the petitioner-

13. Learned Counsel on behalf of the petitioner submits that, for the Assessment Year 2024-25 petitioner's case has been selected for scrutiny Assessment pursuant to a notice issued under Section 143(2) of the Income Tax Act, by the National Faceless Assessment Centre (NFAC).
14. It has been submitted that notices under Section 142(1) of the Income Tax Act, 1961 have been issued by the NFAC on July 29, 2025 and November 21, 2025 respectively, to which the petitioner duly responded on August 18, 2025 and December 16, 2025 respectively.
15. It has further been submitted that, although a survey under Section 133A of the Income Tax Act, 1961 has been conducted at the office premises of the petitioner, the scope of the survey has been entirely focused towards the affairs of its client, Gland Celsus Bio Chemicals Pvt. Ltd.
16. The petitioner further submitted that, during the relevant previous year, no services have been rendered, no invoice has been raised and no fee or income of any nature has been received or accrued from KSK Energy Ventures Ltd in relation to the acquisition.

17. Learned Counsel on behalf of the petitioner submits that on December 22, 2025, the proceedings have been transferred to the Jurisdictional Assessing Officer (JAO) under Section 144B(8) of the Income Tax Act. Notices under Section 142(1) of the Income Tax Act has been issued by the Jurisdictional Assessing Officer (JAO) on January 27, 2026, March 6, 2026 to which the petitioner replied on March 13, 2026. On March 12, 2026 another notice under Section 142(1) of the said Act has been issued, to which the petitioner replied on March 19, 2026 and further filed two replies on March 25, 2026.
18. Learned Counsel on behalf of the petitioner places reliance on CBDT Instructions No. 20/2015, No. 8/2017, No. 1/2018 and Circular no 27/2019 which mandates issuance of show cause notice prior to making disallowances.
19. Learned Counsel on behalf of the petitioner also places reliance on the judgment **Inox Wind Energy Ltd vs ACIT** reported at **(2024) 167 taxmann.com 572(Gujarat)** wherein the Hon'ble Court held that issuance of proper show cause notice indicating proposed disallowances prior to the completion of assessment is mandatory even when, case is transferred from NFAC to JAO. In the case, the assessment order has been set aside for violation of principles of natural justice.
20. Reliance has also been placed by the learned counsel on the judgment **e-Shakti.com Pvt Ltd vs ACIT, WP No. 1260/2020** dated June 17, 2021 in which the Hon'ble Court recorded the instructions or confirmation of the CBDT that principles of natural justice, which are

enshrined in the procedure for assessment, mandate the issuance of a show cause notice prior to finalization of assessment order.

21. It has been also submitted that, no opportunity of personal or virtual hearing has been provided to the petitioner before passing the Assessment Order. In terms of the well settled principle 'audi alteram partem' a Latin phrase meaning "hear the other side" or "let the other side be heard as well" no person should be judged without being afforded a fair hearing, in which each party is given a reasonable opportunity to respond to the evidence and allegations against it.
22. Learned Counsel also places reliance on the judgment **Sahara India (Firm) vs CIT** reported at [2008] 300 ITR 403 (SC), wherein the Hon'ble Apex Court held that-

"15. Thus, it is trite that unless a statutory provision either specifically or by necessary implication excludes the application of principles of natural justice, because in that event the Court would not ignore the legislative mandate, the requirement of giving reasonable opportunity of being heard before an order is made, is generally read into the provisions of a statute, particularly when the order has adverse civil consequences for the party affected. The principle will hold good irrespective of whether the power conferred on a statutory body or tribunal is administrative or quasi-judicial."(emphasis supplied)
23. In **Radhasoami Satsang vs CIT** reported at 193 ITR 321 (SC) and **CIT vs Excel Industries Ltd** reported at 358 ITR 295 (SC) it has been held that no disallowances on similar issue is called for in view of principles of consistency.
24. Learned counsel places reliance on **Godrej Sara Lee Ltd vs Excise and Taxation Officer & Ors** reported in 2023 SCC Online SC 95 where the Court has held that-

“4. Before answering the questions, we feel the urge to say a few words on the exercise of writ powers conferred by article 226 of the Constitution having come across certain orders passed by the High Courts holding writ petitions as "not maintainable" merely because the alternative remedy provided by the relevant statutes has not been pursued by the parties desirous of invocation of the writ jurisdiction. The power to issue prerogative writs under article 226 is plenary in nature. Any limitation on the exercise of such power must be traceable in the Constitution itself. Profitable reference in this regard may be made to article 329 and ordainments of other similarly worded articles in the Constitution. Article 226 does not, in terms, impose any limitation or restraint on the exercise of power to issue writs. While it is true that exercise of writ powers despite availability of a remedy under the very statute which has been invoked and has given rise to the action impugned in the writ petition ought not to be made in a routine manner, yet, the mere fact that the petitioner before the High Court, in a given case, has not pursued the alternative remedy available to him/it cannot mechanically be construed as a ground for its dismissal. It is axiomatic that the High Courts (bearing in mind the facts of each particular case) have a discretion whether to entertain a writ petition or not. One of the self-imposed restrictions on the exercise of power under article 226 that has evolved through judicial precedents is that the High Courts should normally not entertain a writ petition, where an effective and efficacious alternative remedy is available. At the same time, it must be remembered that mere availability of an alternative remedy of appeal or revision, which the party invoking the jurisdiction of the High Court under article 226 has not pursued, would not oust the jurisdiction of the High Court and render a writ petition "not maintainable". In a long line of decisions, this court has made it clear that availability of an alternative remedy does not operate as an absolute bar to the "maintainability" of a writ petition and that the rule, which requires a party to pursue the alternative remedy provided by a statute, is a rule of policy, convenience and discretion rather than a rule of law. Though elementary, it needs to be restated that "entertainability" and "maintainability" of a writ petition are distinct concepts. The fine but real distinction between the two ought not to be lost sight of. The objection as to "maintainability" goes to the root of the matter and if such objection were found to be of substance, the courts would be rendered incapable of even receiving the lis for adjudication. On the other hand, the question of "entertainability" is entirely within the realm of discretion of the High Courts, writ remedy being discretionary. A

writ petition despite being maintainable may not be entertained by a High Court for very many reasons or relief could even be refused to the petitioner, despite setting up a sound legal point, if grant of the claimed relief would not further public interest. Hence, dismissal of a writ petition by a High Court on the ground that the petitioner has not availed the alternative remedy without, however, examining whether an exceptional case has been made out for such entertainment would not be proper.”

Contention of the Respondent –

25. Per Contra, the learned counsel on behalf of the respondent argues that the assessee has been provided multiple opportunities to produce all relevant documents for the scrutiny assessment, vide notice dated June 24, 2025 under Section 143(2) and subsequent notices under Section 142(1) dated July 29, 2025 and November 21, 2025 issued by the FAO and notices under Section 142(1) dated January 27, 2026, March 6, 2026 and March 12, 2026 issued by the JAO, but the assessee failed to provide adequate replies along with requisite document in response to such opportunities.
26. Learned counsel has on behalf of the respondent has submitted that the assessee's reliance on the Circular No. 27/2019 (F.No 225/249/2018-ITA .III) dated September 26, 2019, CBDT Instruction No. 20/2015 dated December 29, 2015 and CBDT Instruction No. 3/2018 dated August 28, 2018 are unfounded as such circulars has been issued prior to the insertion of Section 144B in the Income Tax Act, 1961 and therefore have no bearing on the facts and circumstances of this instant case.
27. It has also been contended that the assessee has also relied upon the Circular No F.No 225/97/2021/ITA –II dated September 6, 2021 to

submit that in cases involving the transfer of assessment from the Faceless Assessing Officer (FAO) to the Jurisdictional Assessing Officer (JAO) in exercise of powers under Section 144B(8) of the Act, the JAO is under a legal obligation to issue a show-cause notice to the assessee.

- 28.** It has been further submitted that the assessee has failed to appreciate the true purport of the Circular dated September 6, 2021 in as much as the circular is confined only to show cause notices issued by the Faceless Assessing Officer (FAO) which remains to be pending at the time of transfer of assessment proceedings from the Faceless Assessing Officer (FAO) to the JAO.
- 29.** It has been submitted that the assessee has an efficacious alternative remedy, as it can prefer an appeal before the concerned appellate authority without making any pre-deposit, since the demand arising from the impugned assessment order has already been recovered by adjustment against the refund available to the assessee for the subsequent assessment year.
- 30.** Learned counsel on behalf of the respondent places reliance upon a judgment of **Thansing Nathmal & Ors. vs Superintendent of Taxes, Dhubri & Ors** reported at **AIR 1964 SC 1419** where the Hon'ble Court has held that, -

“ Ordinarily the Court will not entertain a petition for a writ under Article 226, where the petitioner has an alternative remedy, which without being unduly onerous, provides an equally efficacious remedy. Again the High Court, does not generally enter upon a determination of questions which demand an elaborate examination of evidence to establish the right to enforce which the writ is claimed .The High Court does not therefore act

as a Court of appeal against the decision of a Court or tribunal to correct errors of fact, and does not by assuming jurisdiction under Article 226 trench upon an alternative remedy provided by statute for obtaining relief. Where it is open to the aggrieved petitioner to move another tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by a statute, the High Court normally will not permit by entertaining a petition under Article 226 of the Constitution the machinery created under the statute to be bypassed, and will leave the party applying to it to seek resort to the machinery so set up”.

- 31.** Learned Counsel has also relied upon a judgment **Britannia Industries Limited vs Union of India & Ors** reported at **2024 SCC Online Cal 11482** where the Hon’ble Court has held the importance of availment of alternative statutory remedies as opposed to approaching the writ court, and this decision has been affirmed by the Hon’ble Division Bench in **M/s. Britannia Industries Limited vs Union of India & Ors** (MAT 2371 of 2024).

Analysis-

- 32.** The moot questions involved herein as to-
- (i) Whether an Assessment Order passed under Section 143(3) of the Income Tax Act, 1961, along with the consequential demand and penalty proceedings can be set aside on the ground of gross violation of the principles of natural justice and denial of effective opportunity of hearing to the petitioner.
 - (ii) Secondly, whether the present writ petition under Article 226 of the Constitution of India is maintainable in law, in view of the availability of an alternative statutory remedy under the Income Tax Act, 1961 against the impugned Assessment Order dated March 30, 2026.

33. The rule of alternative remedy is a rule of discretion and self restraint rather than a hard rule of law. It is a settled legal position that existence of an alternative remedy or an interim order does not bar this Court from exercising its writ jurisdiction under Article 226 where there is a manifest violation of principle of natural justice.
34. In **Whirlpool Corporation v. Registrar of Trade Marks** reported at **(1998) 8 SCC 1**, the Supreme Court held that notwithstanding the availability of an alternative remedy, a writ petition would be maintainable where fundamental rights are infringed, there is violation of principles of natural justice, the impugned proceedings are wholly without jurisdiction or the vires of a statute is under challenge.
35. The said principle was reiterated in **Harbanslal Sahnia v. Indian Oil Corporation Ltd.** reported at **(2003) 2 SCC 107**, wherein the Supreme Court observed that the rule of exclusion of writ jurisdiction by availability of an alternative remedy is a rule of discretion and not one of compulsion.
36. The law was authoritatively restated in **Radha Krishan Industries v. State of Himachal Pradesh** reported at **(2021) 6 SCC 771**, where the Supreme Court summarized that a writ petition is maintainable despite an alternative remedy where there has been a violation of principles of natural justice or where the statutory authority has acted in defiance of fundamental principles of judicial procedure.
37. Applying the above principles to the present case, it is held that the impugned assessment order is vitiated by jurisdictional infirmity and fundamental procedural defects, inasmuch as the mandatory

requirements under the Income-tax Act, 1961 have not been complied with, resulting in denial of a fair opportunity of hearing to the petitioner.

- 38.** In **Bharat Aluminium Company Ltd. v. Union of India**, reported at **2022 SCC OnLine Del 105**, the Court has observed that where replies submitted by the assessee are not properly considered and reasonable opportunity is denied, the assessment order becomes unsustainable.
- 39.** Similarly, in **YCD Industries v. National Faceless Assessment Centre**, reported at **(2021) 437 ITR 119 (Del)**, it has been held that the Court can set aside the assessment on the ground that the assessee has been denied a meaningful opportunity of hearing. The demand notice and penalty proceedings derive their existence solely from the impugned assessment order.
- 40.** The principles of natural justice are not satisfied by a mere formality of issuing notices. The opportunity contemplated under law must be real, effective and reasonable. An assessee must be informed of the material proposed to be relied upon and must be granted adequate opportunity to controvert the same.
- 41.** Where an assessment order entails serious civil consequences, adherence to the rule of *audi alteram partem* becomes indispensable. Any order passed in breach thereof stands vitiated.
- 42.** In the present case, the challenge is not merely to the correctness of additions made by the Assessing Officer on merits, the challenge strikes at the very decision-making process. The petitioner alleges a

complete denial of effective opportunity of hearing before passing the assessment order under Section 143(3) dated March 30, 2026. Such grievance goes to the root of the matter and falls squarely within the recognized exceptions to the rule of alternate remedy.

43. It is also observed in **Tin Box Company vs CIT** reported at **(2001) 249 ITR 216(SC)** that an assessment order passed without a proper opportunity of hearing cannot be cured or substituted by providing a hearing at the appellate stage (CITA). A faulty assessment process must be set aside entirely and remanded.
44. A review of the record reveals that the respondent failed to prove a meaningful and effective opportunity for the petitioner to present their case. Denying an effective hearing and bypassing statutory mandates for personal interaction vitiates the decision making process. The impugned Assessment Order, having been passed in gross violation of natural justice, is void ab initio.
45. Likewise, in **A.K. Kraipak v. Union of India** reported at **(1969) 2 SCC 262**, the Supreme Court has observed that the aim of the rules of natural justice is to secure justice and prevent miscarriage of justice.
46. In the present case, substantial additions have been made in the assessment order without furnishing adequate opportunity to the petitioner to explain the discrepancies alleged against him. The record further discloses that the impugned order has been passed in undue haste at the fag end of the limitation period. The procedure adopted by the Assessing Officer reduced the opportunity of hearing to a mere ritualistic formality rather than a meaningful safeguard.

- 47.** Once the assessment order is held to be vitiated for breach of natural justice, the consequential demand raised there under and all proceedings initiated on the basis thereof necessarily falls flat. The foundation having been removed, the superstructure erected thereupon cannot survive.
- 48.** This Court is therefore satisfied that the impugned assessment order suffers from gross violation of the principles of natural justice and failure to provide an effective opportunity of hearing. Such violation goes to the root of the proceedings and renders the assessment order legally unsustainable.
- 49.** Having heard the parties and upon perusal of the materials on record, this Court finds substantial merit in the challenge made by the petitioner to the Assessment Order dated March 30, 2026 passed under Section 143(3) of the Income Tax Act, 1961 for the Assessment Year 2024-25.
- 50.** This Court is, therefore, inclined to hold that :
- (i) the writ petition is maintainable notwithstanding the availability of a statutory appellate remedy;
 - (ii) the assessment order dated March 30, 2026 passed under Section 143(3) for Assessment Year 2024-25 suffers from gross violation of principles of natural justice and denial of effective opportunity of hearing;
 - (iii) the impugned order stands vitiated on account of procedural unfairness affecting the very decision-making process;

(iv) consequently, the demand notice and penalty proceedings arising there from are liable to be quashed.

51. Accordingly, in the light of **Tin Box Company (supra)** the Assessment Order dated March 30, 2026, passed under Section 143(3) of the Income Tax Act, 1961 for Assessment Year 2024-25, the consequential demand notice and all connected penalty proceedings are hereby quashed and set aside. The matter is remanded back to the Assessing Officer for fresh consideration after granting a meaningful opportunity of personal hearing. The assessing officer shall provide the petitioner with a specific, reasonable opportunity to file a detailed reply along with all relevant materials for adjudication.
52. The fresh Assessment Order shall be passed in accordance with law within a period of eight weeks from the date of this order and shall communicate the decision so arrived at, to the petitioner immediately thereafter.
53. It is made clear, that no adjournment shall be prayed for by the petitioner and the entire assessment proceedings shall be completed in a time bound manner.
54. With the above observations and directions the writ petition **WPO 212 of 2026** along with all connected applications are allowed and disposed of. There shall, however, be no order as to costs.
55. Since affidavits have not been called for the allegations made in the writ petition deemed to have been denied and not admitted.

- 56.** Urgent Photostat certified copy of this order if applied for be supplied to the parties on priority basis upon compliance of all requisite formalities.

(Smita Das De, J.)