ORDER SHEET

WPO/440/2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

B.A. GHADAGE JEWELLERS PVT. LTD.
Versus
UNION OF INDIA AND ANR.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 13th September, 2021

Appearance:
Mr.R.K.Chowdhary, Adv.
Mr. R.K.Mitra, Adv.
Mr. P.Chatterjee, Adv.
....for petitioner
Mr. Y.J. Dastoor, A.S.G.
Mr. P.K. Bhowmik, Adv,
...for respondents

The Court : In this matter the petitioner has challenged the impugned notice dated 27th February, 2021 under Section 153A of the Income Tax Act, 1961 relating to assessment year 2012-13 on the ground that the said relevant assessment year was already a part of an assessment of an earlier search and seizure and the final assessment order under Section 153A of the Act was already passed. In the second search and seizure again including the same assessment year in 2012-13 in proceeding under Section 153A of the Act, is illegal and without jurisdiction since no new incrementing documents or materials are there to proceed again by issuing notice under Section 153A of the Act relating to the same assessment year.

It appears from the supplementary affidavit filed in this case that the petitioner has made an objection on 15th March, 2021 to the aforesaid impugned notice dated 27th February, 2021 before the Assessing Officer and which is still pending and has not been disposed of and during pendency of that objection respondent-Assessing Officer has issued subsequent notices. Petitioner also relies on an unreported order of the Hon'ble Delhi High Court dated 22nd March, 2021 in the case of Nelofar Dar Vs. Assistant Commissioner of Income Tax Central Circle – 27, Delhi.

Considering the submission of the parties, I am inclined to dispose of this writ petition by directing the respondent-Assessing Officer concerned to consider and dispose of the aforesaid pending objection of the petitioner, dated 15th March, 2021, by passing a reasoned and speaking order in accordance with law after giving an opportunity of hearing to the petitioner or his authorized representative within eight weeks from the date of communication of this order. In addition to the aforesaid objection, petitioner will be entitled to raise all the points in this writ petition before the Assessing Officer at the time of hearing of the aforesaid objection, who will consider the same in accordance with law and till such time respondent-Assessing Officer will not proceed further in the matter. Further proceeding in the matter will depend upon the outcome of the order on the aforesaid objection to be passed by the Assessing Officer concerned.

It is recorded that this Court has not gone into the merit of the aforesaid objection filed by the petitioner before the Assessing Officer concerned and the same should be considered strictly in accordance with law.

WPO No. 440 of 2021 is disposed of accordingly.

(MD. NIZAMUDDIN, J.)

sb.