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ORDER SHEET

WPO 825 of 2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SILVERTOSS VANIJYA PVT LTD
Vs.
UNION OF INDIA AND ORS.

BEFORE:

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date : 10th November, 2021.

(Via Video Conference)

Mr. Amani Kayan,
Mr. Shashwat Nayak, Advs.
... for the Petitioner
Mr. Y.J. Dastoor, Ld. ASG
Mr. S.N. Dutta, Adv.
Mr. A. Bhoumick, Adv.
...for the respondents

The Court: Heard learned advocate appearing for the petitioner and learned Additional Solicitor General for the respondents.

Petitioner has filed this writ petition being aggrieved by the impugned notice dated 23rd June, 2021 relating to assessment year 2013-14 and challenged the notice under Section 148 of the Income Tax Act, 1961 mainly on the ground that the same is bad and illegal in view of the fact that relating to the same assessment year, notice under Section 148 of the Act was issued and final assessment order under Section 147/143(3) of the Act was already passed on 18th June, 2019 as appears at page 43 of the writ petition.

Learned Additional Solicitor General is not in a position to defend such action of the respondent assessing officer and according to me issuance of such second notice under the same section in respect of the same assessment year is totally in non-application of mind and such action on the part of the assessing officer concerned has caused harassment to the petitioner and created the scope of litigation and petitioner had to bear unnecessary cost of litigation and at the same time department has also to incur cost of unnecessary litigation from public exchequer for defending litigation arose due to non-application of mind by the assessing officer concerned.

Considering the facts of the case and submissions of the parties I am of the view that there is no need of keeping the writ petition pending or calling for any affidavit since there is no scope to contradict the allegation of the petitioner as appears from records. The impugned notice dated 23rd June, 2021 under Section 148 of the Act is accordingly set aside. Registrar, Original Side shall forward this order to the Principal Chief Commissioner, Kolkata.

This writ petition being WPO 825 of 2021 is disposed of.

(MD. NIZAMUDDIN, J.)

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