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ORDER SHEET

WPO 1088 of 2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WOOD INDIA ENGINEERING AND PROJECTS PRIVATE LIMITED (SUCCESSOR TO FOSTER WHEELER BENGAL PVT LTD)
Vs.
DEPUTY COMMISSIOINER OF INCOME TAX CIRCLE 1(1) & ORS.

BEFORE:

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date : 30th November, 2021.

(Via Video Conference)

Mr. Nishant Thakkar,
Ms. Jasmin Amalsadvda,
Mr. Abhijit Biswas,
Mr. Bhaskar Sengupta, Advs.
... for the petitioner
Mr. Y.J. Dastoor, Ld. ASG,
Mr. Tilok Mitra, Adv.
Mr. Soumen Bhattacharjee, Adv.
...for the respondents

The Court: Heard the learned advocates appearing for the parties.

In this matter petitioner has challenged the impugned assessment order dated 29th September, 2021 under Section 143(3), 144C(1)/254 and subsequent penalty notice dated 29th September, 2021 under Section 271(1)(c) of the Income Tax Act, 1961 and transfer pricing order dated 29th January, 2021 on the ground that the impugned assessment order has been passed against the non-entity and this fact that the assessee against whom impugned assessment order and penalty notice has been issued is not existing and has already been amalgamated long back and such intimations are part of the record of this writ petition. Further the impugned final assessment order has been passed without passing any draft assessment order and providing any opportunity to the assessee to take objection against any draft assessment order if so passed. I had granted opportunity to the learned Additional Solicitor General by my order dated 15th November, 2021 to ascertain from the respondent Income Tax Authority and verify these allegations of the petitioners

Learned advocate appearing for the respondent Income Tax Authority has not come up with any written instruction and he could not contradict these allegations of the petitioners which are substantiated from the record.

Considering these facts that the allegations of the petitioners could not be contradicted, the same stand admitted by the respondents, this writ petition being WPO 1088 of 2021 is disposed of by quashing the aforesaid impugned assessment order dated 29th September, 2021 being annexure P-20, impugned penalty notice dated 29th September, 2021 being annexure P-22 and transfer pricing order dated 29th January, 2021 being annexure P-15 to the writ petition. However, quashing of the impugned assessment order, impugned penalty notice and transfer pricing order will not prevent the respondent Income Tax Authority to initiate any fresh assessment proceeding if permitted under the law.

(MD. NIZAMUDDIN, J.)

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