WPA 25770 OF 2022

14.12.2022
Sl no. 5
Ct no. 2
P.M.

K K Agarwal and Sons HUF
- Vs -
Income Tax Officer, Ward No. 30(1), Kolkata & Ors.

Mr. Avra Mazumder,
Mr. Binayak Gupta,
Mr. Souman Bhowmik,
... for the petitioner
Mr. Aryak Dutt
.... For Union of India

Pursuant to the order of this Court dated 30th November, 2022, Mr. Dutt learned advocate appearing for the respondent has filed a written instruction with supporting documents on the issue of approval taken by the appropriate authority on issuance of notice under Section 148A(b) of the Income Tax Act, 1961.

It is the case of the petitioner that the assessment year involved for reopening of the assessment is assessment year 2016-2017 and the appropriate authority for grant of approval in such case are the authorities under Section 151(ii) of the Income Tax Act, 1961.

It appears from record and instruction submitted by Mr. Dutt that in this said case approval has been granted by principal CIT -9, Kolkata who is not the authority falls under Section 151(ii) of the Act as such the approval in this case is not an authority authorized under the law and such approval is not sustainable in law and in view of this factual and legal position the impugned notice under Section 148A(b) of the Act and all subsequent proceedings are not sustainable in law and accordingly quashed.

However, quashing of the impugned notice and subsequent proceedings will not be a bar on the part of the Income Tax authorities concerned to initiate any fresh proceeding in future in accordance with law.

With this observation and direction this writ petition being WPA 25770 of 2022 stands disposed of.

Let the record produced by Mr. Dutt be kept with the record.

(Md. Nizamuddin, J.)