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WPA 23793 of 2010

M/s. Kinnor Kinnoree & Anr.
Vs
The Commissioner of Income Tax, Kolkata & Ors.

Mr. J.P. Khaitan,
Mr. Ananda Sen,
Ms. Shebatee Datta
... For the Petitioners.

Mr. Vipul Kundalia
... For the Income Tax Authorities.

Heard learned Advocates appearing for the parties.

In this writ petition, petitioners have challenged the impugned order dated 26th March, 2010 passed by the CIT, Kol-X, under Section 263 of the Income Tax Act, 1961. On perusal of the aforesaid impugned order, I am not inclined to interfere with the order dated 26th March, 2010, firstly on the ground that it is an appealable order under the Statute, before the Tribunal and secondly, this case does not fall in those categories of cases where the authority who has passed the order having inherent lack of jurisdiction. It is the case of the petitioners that they are not satisfied with the reasoning and findings given by the Commissioner in its impugned order. In exercise of Constitutional writ jurisdiction, this Court cannot act as an Appellate Authority and substitute the findings of an authority and appropriate remedy for the petitioners will be to file appeal before the Tribunal, against the impugned order.

Considering the facts and circumstances of the case, without going into the merits of the aforesaid impugned order of revision under Section 263 of the Act, this writ petition, being WPA 23793 of 2010 is dismissed solely on the ground of availability of alternative remedy by way of statutory appeal. If the petitioners file appeal against the impugned order within four weeks from date, before the learned Tribunal, it will not raise the point of limitation and will decide such appeal on merits without being influenced by any observation made in this order.

Further, since the petitioners are enjoying the interim order in this matter since 7th of December, 2010, the aforesaid interim order will continue only for a period of ten weeks from date with liberty to the petitioners to make appropriate application for any interim relief before the learned Tribunal if so advised and which will be considered by the learned Tribunal strictly in accordance with law.

(Md. Nizamuddin, J.)