OD –15

ORDER SHEET
IA NO. GA/1/2022
In WPO/817/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

BHUTORIA VALVE UDYOG LIMITED
Vs
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 27TH JUNE, 2022.

Appearance:
Mr. Rites Goel, Adv.
..for the petitioner

Mr. Tilak Mitra, Adv.
..for the respondents

The Court: Heard learned Advocates appearing for the parties.

Petitioner has filed this writ petition against the impugned show-cause notice dated 30th March, 2021 and the order of rejection of the petitioner's objection dated 13th December, 2021 on the basis of the impugned notice under Section 148 of the Income Tax Act, 1961 and by that order, direction for filing affidavits was passed and the Assessing Officer was given liberty to proceed with the re-assessment proceeding and also to pass final order but the Assessing Officer was directed not to communicate the assessment order, if passed, without leave of the Court.

By this application being GA No. 1 of 2022, petitioner submits that the Assessing Officer, in violation of the order of this Court dated 14th February, 2022 after passing the assessment order, has communicated the same to the petitioner. A copy of the final assessment order dated 3rd March, 2022 under Section 147 read with Section 144(b) of the Income Tax Act, 1961 has been placed before me and on perusal of the same, I find that the said assessment order is passed on the basis many relevant materials and evidence and assessment has been made after an investigation and this Court, in exercise of the Constitutional Writ Jurisdiction under Section 226 of the Constitution by taking aforesaid assessment order into consideration, cannot substitute the finding of the Assessing Officer and the appropriate authority will be the Appellate Authority to scrutinise this evidence and documents upon which the Assessing Officer has relied in his assessment order.

This Court cannot ignore the fact that during the pendency of the writ petition, assessment order has already been filed and which is an appealable order and particularly on going through the assessment order I find that if I interfere with the same, it will amount to decide an assessment order on merit by the Writ Court which I am not inclined to do so.

This writ petition being WPO No. 817 of 2022 is disposed of by granting liberty to the petitioner to file appeal against the aforesaid assessment order dated 30th March, 2022 and if such appeal is filed by the petitioner before CIT (Appeals) within thirty days from the date, no coercive action of recovery of demand in question shall be taken by the respondent

Assessing Officer concerned and CIT (Appeals) will not raise the point of limitation.

After filing the appeal, petitioner will be at liberty to make appropriate application in accordance with law for stay of demand in question before the authority concerned.

With these observations and direction, this writ petition being WPO No. 817 of 2022 and the application being GA No. 1 of 2022 stand disposed of.

(MD. NIZAMUDDIN, J.)

Sbghosh