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ORDER SHEET
WPO/1689/2022
WPO/1690 /2022
WPO/1691 /2022
WPO/1692/2022
WPO/1693/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

BHINASWAR COMMERCIAL PVT. LTD.
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 6th April, 2022.

Appearance:
Mr. Arun Kumar Upadhyay, Adv.
Mr. Rahul Kinkar Pandey, Adv.
Mrs. Shobha Upadhyay, Adv.
...For the Petitioner

Mr. Aryak Dutt, Adv.
...For the respondent

The Court : Heard learned advocates appearing for the parties.

In these writ petitions, petitioner has challenged the impugned notices under Section 148 of the Income Tax Act dated 30th March, 2021 relating to relevant assessment years and all subsequent proceedings on the basis of the aforesaid impugned notices. On perusal of the writ petitions I find that guidelines laid down by the Hon'ble Supreme Court in the case of Driveshafts India Ltd. vs. ITO & Ors. reported in 259 ITR 19 has been fully observed and principles of natural justice has also been observed and even final assessment orders have been passed during the pendency of the writ petition which are appealable orders. I find on perusal of writ petitions that recorded reason was provided to the petitioner where elaborate reasoning has been given for initiation of impugned proceeding under Section 147 of the Act. Further impugned proceeding has been initiated by taking prior approval under Section 151 of the Act. It appears that objection of the petitioner against the impugned notices under Section 148 of the Act was considered and disposed of and further draft assessment order was also served on the petitioner before passing a final assessment order.

Considering these facts I do not find any procedural irregularity in the impugned assessment proceeding. Further it is not a case which falls in those categories where proceeding has been initiated lacking inherent jurisdiction or there is a case of violation of principles of natural justice or issue of any constitutional validity is involved in this case. Petitioner also could not produce any document to show that any objection to the draft assessment order was filed before the respondent and that the petitioner in its objection to the draft assessment has asked for any personal hearing. As a result assessing officer had no option and had to accept the draft assessment and pass final assessment order.

Considering the facts and circumstances of the case, I am of the considered view that since final assessment orders have been passed after compliance of all formalities required under the law and that the petitioner still has remedy by way of appeals under the statute against the assessment orders, I am not inclined to entertain these writ petitions being WPO 1689 of 2022, WPO 1690 of 2022, WPO 1691 of

2022, WPO 1692 of 2022 and WPO 1693 of 2022 and accordingly same are dismissed.

However, it is clarified that dismissal of these writ petitions will not prevent the petitioner from taking all the points raised in these writ petitions before the Appellate Authority in case petitioner files any appeal against such assessment order.

(MD. NIZAMUDDIN, J.)

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