OD – 3

ORDER SHEET
WPO/2076/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

ORIENT EXPORTS PVT LTD
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 18th May, 2022.

Appearance:
Mr. Pranit Bag, Adv.
Mr. Debdatta Saha, Adv.
Mr. Abhijit Sarkar, Adv.
...For the Petitioner

Mr. Om Narayan Rai, Adv.
...For the respondents

The Court : Heard learned advocates appearing for the parties.

Affidavit of service filed in Court be kept with the record.

In this matter, petitioner has challenged the impugned assessment order dated 29th March, 2022, under Section 147 read with Section 144 of the Income Tax Act, 1961 relating to assessment year 2016-17, on the ground that the impugned assessment order is bad in law since the whole proceeding was under a wrong PAN number being AAAC03377K which has already been surrendered long back by the petitioner on 12th September, 2011 as appears at page 38 of the writ petition. In addition, petitioner's further ground to challenge the impugned order is that during the impugned reassessment proceeding which has been culminated into the final assessment order, petitioner has made several representations being letters dated 4th March, 2022 at page 69 of the writ petition and thereafter 24th March, 2022 at page 78 of the writ petition before the assessing officer concerned objecting to the continuance of the impugned assessment proceeding by bringing it to the knowledge of the assessing officer that the same was being wrongly continued under a surrendered PAN number but the assessing officer ignoring the aforesaid representations and proceeded with the impugned proceeding and passed the final impugned assessment order. Without going into the validity and legality of the impugned reassessment proceeding, the basic question arises that even if the assessing officer was proceeding under a wrong PAN number, what prevented him from considering and disposing the aforesaid representations of the petitioner by passing an order by which even he could have rejected it if he had material before him.

Considering the submissions of the parties and the fact as appears from record and the discussion made above, I am of the view that the impugned assessment order dated 29th March, 2022 even without going into the merit is not sustainable for the reason of violation of principles of natural justice since the petitioner's grievance and representations were neither considered nor rejected before passing the final impugned assessment order and accordingly the same is set aside with liberty to the assessing officer concerned to proceed with the impugned reassessment proceeding in accordance with law after considering and disposing the aforesaid representation of the petitioner dated 24th March, 2022 by passing a reasoned and speaking order and after giving opportunity of hearing to the petitioner or its authorised representative within four weeks from date and further proceeding will depend upon the final outcome of the decision to be passed by the assessing officer on the aforesaid representation dated 24th March, 2022 being annexure P-10 at page 78 to the writ petition. The assessing officer shall serve the notice of hearing of the aforesaid representation manually. The petitioner shall communicate this order to the assessing officer concerned.

With these observations and directions, this writ petition being WPO 2076 of 2022 stands disposed of.

(MD. NIZAMUDDIN, J.)

TR/