OD – 27

ORDER SHEET
WPO/623/2019
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

PRACHAR COMMUNICATIONS PVT. LTD.
VS
PRINCIPAL COMMISSIONER OF INCOME TAX, KOLKATA 4 AND ORS

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 11TH FEBRUARY, 2022.

Appearance:
Mr. J.P. Khaitan, Adv.
Mr. A. Banerjee, Adv.
Mr. Sanjay Baid, Adv.
..for the petitioners

Mr. Smarajit Roychowdhury, Adv.
Mr. Asok Bhowmick, Adv.
...for the respondents

The Court: In this matter, the petitioner has challenged the impugned order dated 2nd September, 2019 passed under Section 127 of the Income Tax Act, 1961 transferring the Income tax file of the petitioner from Kolkata to Bangalore.

Mr. Roychowdhury, learned Advocate appearing for the respondent, Income Tax Authority submits the written instruction dated 5th January, 2022 issued by the Assistant Commissioner of Income Tax Act, (HQ) for Principal Commissioner of Income Tax Central, Bangalore, from which it appears that the respondent Income Tax Authority at Bangalore are agreeable to transfer the income tax file of the petitioner to Kolkata. Particularly, paragraph 5 of said instruction is very relevant, which is quoted below:

"I am directed to further state that this office has no objection, if the case is centralised in Kolkata itself. However the Hon'ble High Court may be requested to allow the proceedings initiated by DCIT CC 2(3), Bangalore during the stay period, as the notices were issued to protect the interest of revenue and stay order will not extend the limitation period for issue of notice. Since the matter is posted for hearing before Hon'ble High Court on 10.01.2022, the departmental Standing Counsel may be briefed accordingly."

In view of the specific stand by the respondent Income Tax Authority that they are agreeable in transferring back Income Tax file of the petitioner from Kolkata to Bangalore, the impugned order dated 2nd September, 2013 passed under Section 127 of the Act is set aside.

All legal consequences will follow automatically.

Let the instruction dated 5th January, 2022 filed by Mr. Roychowdhry be kept with the record.

In view of the above order, the writ petition being WPO No. 623 of 2019 stand disposed of.

(MD. NIZAMUDDIN, J.)

Sbghosh