OD –14

ORDER SHEET
WPO/2298/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

EXCEL COMMODITY AND DERIVATIVE PVT LTD
VS
UNION OF INDIA AND ORS

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 30TH JUNE, 2022.

Appearance:
Mr. Pranit Bag, Adv.
Mr. Brijesh Kumar Singh, Adv.
..for the petitioner

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

The Court: Affidavit of service filed by the petitioner be kept with the record.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 7th April, 2022 under Section 148A(d) of the Income Tax Act relating to assessment year 2018-2019 on the basis of notice dated 22nd March, 2022 under Section 148A(b) of the Act.

It is the case of the petitioner that the impugned order is bad in law and is a non-speaking order as well as perverse in view of the fact that in response to the aforesaid notice under Section 148A(b) of the Act dated 22nd March, 2022, petitioner has made an objection with elaborate reasoning as appears at page 28 being Annexure P-3 to the writ petition while there is no discussion and no dealing with the same by the Assessing Officer in its aforesaid order dated 7th April, 2022.

On perusal of the aforesaid order under Section 148A(d) of the Act, I do not find any reasoning or any discussion on the contention raised by the petitioner in its aforesaid objection dated 28th March, 2022.

Mr. Tilak Mitra, learned Advocate appearing for the respondent could not justify the aforesaid impugned order by his submission.

Considering the submission of the parties, the aforesaid impugned order dated 7th April, 2022 under Section 148A(d) and subsequent notice under Section 148 of the Act are set aside and the matter is remanded back to the Assessing Officer concerned for passing a fresh order in accordance with law and by passing a reasoned and speaking order particularly by taking into consideration the objection of the petitioner dated 28th March, 2022, within eight weeks from the date of the communication of this order.

Needless to mention, before passing any fresh order under Section 148A(d) of the Act, petitioner or its authorised representative shall be given opportunity of hearing.

With these observations and directions, this writ petition being WPO No. 2298 of 2022 stands disposed of.

(MD. NIZAMUDDIN, J.)

Sbghosh