OD – 3, 7,9,11

ORDER SHEET
WPO/2446/2022
WPO/2453/2022
WPO/2455/2022
WPO/2457/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

BINA AGARWAL
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 5th September, 2022.

Appearance:
Mr. A.K. Upadhyay, Adv.
...For the Petitioner

Mr. S. Roy Chowdhury, Adv.
Mr. Soumen Bhattarcharjee, Adv.
...For the respondents

The Court : Heard learned counsel appearing for the parties.

By these writ petitions, petitioners have challenged the impugned orders dated 25th July, 2022, relating to assessment year 2017-18, 28th July, 2022, relating to assessment year 2015-16, 26th July, 2022, relating to assessment year 2014-15 and 21st July, 2022, relating to assessment year 2016-17 respectively under Section 148A(b) of the Income Tax Act, 1961 on the ground that the same are arbitrary, illegal and in total non-application of mind since all these orders are on the very same figure amounting to Rs. 61,24,800/- in all the aforesaid assessment years and relate to the very same transaction which was declared by the assessing officer as unexplained money in the hands of the assessee in assessment year 2013-14 which already by an order of this Court dated 26th August, 2022 in WPO 2448 of 2022 has been quashed on the ground being barred by limitation. It is very strange that how the very same amount of money relating to the very same particular transaction in a particular assessment year can be subjected to reassessment proceeding matter in series of the aforesaid assessment years. In addition the impugned orders are self contradictory to the assessing officer's own finding since first it records that the said amount is fictitious profit in equity/derivative trading while in the same order he has recorded that the said amount is an investment in share and remains unexplained in the hands of the assessee and had it been so it could have taxed the same in the said relevant year in which according to the respondent assessee if it was unexplained. How in all these assessment years involved in these writ petitions on the very same amount separate assessment proceedings can be initiated. In view of the facts and circumstances of the case as recorded above and submissions of the parties, I am of the considered view that the impugned assessment proceedings are in total non-application of mind and are bad and not sustainable in law.

In view of the discussion and findings made above, all the aforesaid impugned orders under Section 148A(d) of the Act and subsequent proceedings are quashed and accordingly the writ petitions being WPO 2446 of 2022, WPO 2453 of 2022, WPO 2455 of 2022 and WPO 2457 of 2022 are disposed of by allowing the same.

(MD. NIZAMUDDIN, J.)

TR/