OD –3

ORDER SHEET

WPO/2676/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

NIPHA ENTERPRISES LLP
VS
ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE-32 AND ORS

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 29th September, 2022.

Appearance:
Mr. J.P. Khaitan, Sr. Adv.
Ms. Swapna Das, Adv.
Mr. Siddharth Das, Adv.
...For the Petitioner

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

The Court: Heard learned counsel appearing for the parties.

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

By this writ petition, petitioner has challenged the impugned order dated 27th July, 2022 and notice dated 28th July, 2022 relating to assessment year 2017-18, under Section 148 of the Income Tax Act, 1961 which has been issued in the name of M/s. Nipha Enterprises, a partnership firm which according to the petitioner is, non-existing entity since it has already been converted as LLP (Nipha Enterpsies LLP) which identification No. AAC-9999 under the LLP Act, 2008, with effect from 2nd December, 2014 and this fact of conversion was already intimated to the respondent Income Tax Authority as appears from the assessment order dated 13th November, 2017 passed in the case of the firm M/s. Nipha Enterprises for the assessment year 2015-16 being annexure P-2 to the writ petition at page 58 as also by letter dated 26th July, 2021 which appears at page 61 being annexure P-4 to the writ petition and petitioner submits that in view of this admitted fact substantiated by record, the aforesaid impugned order is not sustainable in law and is liable to be quashed.

Learned advocate appearing for the respondent Income Tax Authority is not in a position to contradict the aforesaid allegation and the submission of the petitioner which is supported by records.

Considering the submissions of the parties, this writ petition being WPO 2676 of 2022 is disposed of by quashing the impugned order dated 27th July, 2022 being annexure P-10 to the writ petition and the impugned notice dated 28th July, 2022 being annexure P-11 to the writ petition.

However, dismissal of this writ petition will not prevent the Income Tax Authority concerned to issue any fresh notice, in the matter in accordance with law.

With these observations and directions, this writ petition stands disposed of.

(MD. NIZAMUDDIN, J.)

TR/