OD –12

WPO/2786/2022

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WONDER FINVEST PVT LTD
VERSUS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 28th November, 2022.

Appearance:
Mr. Amit Agarwal,Adv.
…for the petitioner.

Mr. Om Narayan Rai,Adv.
…for respondent.

The Court:-Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order on the ground that the same is illegal and without jurisdiction for the reason that the assessing officer has already, by his earlier order dated 31st July, 2022 relating to the same assessment year and on the same issue, taken a view for dropping of the proceeding under Section 148/147 of the Act.

I am of the considered view that after taking a decision of dropping the proceeding under Section 148/147 of the Act, the same assessing officer cannot sit as an Appellate Authority or a Review Authority against his own order and pass a fresh impugned order under Section 148A(d) of the Act.

Mr. Om Narayan Rai, learned Counsel appearing for the respondents could not justify and defend the impugned order.

Considering the facts and circumstances of the case as appears from records and submissions of the parties, the aforesaid impugned order dated 31st July, 2022 under Section 148A(d) of the Act and subsequent notice under Section 148 of the Act are quashed. However, quashing of the impugned order and proceedings will not be a bar for the income tax authorities concerned to take another remedial measure, if available under the law.

In view of the discussion made above and the reasons recorded, this writ petition, being WPO No. 2786/2022 is disposed of.

(MD. NIZAMUDDIN, J.)

s.chandra