

OD – 4

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/213/2022
IA NO:GA/1/2022
CONSOLIDATED INFRACON PRIVATE LIMITED
Versus
UNION OF INDIA AND ORS.

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Dated : NOVEMBER 23, 2022.

Appearance:
Mr. Vipul Kundulia, Adv.
...for appellant
Mr. Tilak Mitra, Adv.
...for respondent

The Court :- This intra-court appeal by the writ petitioner is directed against the order dated 16.8.2022 in WPO/239/2022 by which the learned writ court declined to grant interim orders as prayed for by the appellant and simultaneously directed the respondents to file their affidavit in opposition within a time frame. It is not disputed that the respondents have filed their affidavit in opposition but reply to the same is yet to be filed.

Considering the facts and circumstances of the case, we are of the view that the learned single Bench was right in observing that the appellant has not made out any prima facie case for passing an interim order. However, to take a decision as to the correctness of the order passed by the respondents under

section 148A[d] of the Income Tax Act, 1961, affidavit in opposition is required and the same has already been filed. That apart, the writ court had directed the writ petition to be listed for final hearing on 1.11.2022. However, it appears that for some reasons the department has not listed the matter. Since the affidavit in opposition has already been filed we direct the appellant to file a reply, if any, to the said affidavit within a week from date. Let the writ petition be listed before the learned writ court on 5.12.2022.

With the above observation, the appeal stands dismissed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)