OD –22

ORDER SHEET

WPO/3143/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MRM FINVEST PRIVATE LIMITED
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 12th December, 2022.

Appearance:
Mr. Protyush Jhunjhunwala, Adv.
Mr. Mrigank Kejriwal, Adv.
...For the Petitioner

Mr. Aryak Dutt, Adv.
...For the Revenue

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 under Section 264 of the Income Tax Act, 1961 and on perusal of the same I am not inclined to interfere with the aforesaid impugned order by particularly, taking into consideration the reasons recorded by the Commissioner of Income Tax concerned, relevant potion of which is as hereunder :

"I have examined the facts and circumstances of the case. In the petition filed u/s 264 of the Act, the assessee has claimed the following reliefs –

1. The original return filed on 16/09/2019 be treated as a valid return.

2. The business loss claimed as the return be allowed to be carried forward for being set-off in subsequent years.

I find that the CPC, Bangalore vide order u/s.139(9) of the Act dated 18/03/2020 treated the return of income filed by the assessee as invalid. The assessee subsequently filed a return of income on 27/07/2020 u/s 139(4) of the Act. Once the assessee has filed a belated return of income and the original return of income has been accepted as being invalid, the grievance of the assessee has no legs to stand on.

Further, the disallowance of carry forward of loss has been made in respect to the return filed belatedly on 27/07/2020. The original return filed on 16/09/2019 was treated as invalid. The cause of action therefore arises in respect of belated return and not the return treated as invalid.

In view thereof and as discussed above, I find that the petition of the assessee u/s 264 of the Act is not tenable. The petition is therefore dismissed."

Accordingly, this writ petition being WPO 3143 of 2022 is dismissed.

(MD. NIZAMUDDIN, J.)

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