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WPA 4544 of 2023

Sunetra Sengupta
Vs
Income Tax Officer, Ward No.61 (3), Kolkata & Ors.

Mr. Avra Mazumder,
Mr. Suman Bhowmik,
Mr. Samrat Das,
Ms. Alisha Das
... For the Petitioner.
Mr. Tilak Mitra
... For the Income Tax Authority.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated July 27, 2022, under Section 148A(d) of the Income Tax Act, 1961 relating to the assessment year 2017-2018 by raising the pure question of law relating to the jurisdiction of the Assessing Officer concerned in passing the aforesaid impugned order by non-compliance of the formalities of taking approval of the specified authority mentioned in Section 151(ii) of the Income Tax Act, 1961.

Admitted position in this case is that impugned order under Section 148A(d) of the Act has been passed after a lapse of three years from the end of the relevant assessment year and in this case specified authority is not the Principal Commissioner of Income Tax-18, Kolkata from whom approval has been taken before passing the aforesaid impugned order and it appears on a plain reading of Section 151(ii) of the said Act that Principal CIT from whom approval has been taken is not the specified authority for the purpose of approval under Section 148 and Section 148A of the Income Tax Act, 1961.

Considering the fact and circumstances of this case, submission of the parties and the aforesaid factual and legal position, the aforesaid impugned order under Section 148A(d) of the Act dated July 27, 2022 and all subsequent proceedings are quashed.

However, quashing of the aforesaid impugned order under Section 148A(d) of the Act and subsequent proceedings will not be a bar on the part of the respondent/Assessing Officer concerned to proceed further from the stage where such irregularity has been committed, after taking approval from the "specified authority" in accordance with law.

In view of the discussion made above, this writ petition being WPA 4544 of 2023 is disposed of.

(Md. Nizamuddin, J.)