28.04.2023
PB
Sl. No.1.

WPA 5755 of 2023

Excel Movers Pvt. Ltd.
Vs
Income Tax Officer, Ward No.13(1), & Ors.

Mr. Saurabh Bagaria,
Mr. Rites Goel.
... For the petitioner.

Mr. S. Roychowdhury.
.......for the respondent.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 30th July, 2022 under Section 148A(d) of the Income Tax Act, 1961 relating to assessment year 2016-2017 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 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 facts and circumstances of this case and submission of the parties and the aforesaid factual and legal position, the aforesaid impugned order under Section 148A of the Act dated 30th July, 2022 and all subsequent proceedings are quashed.

However, quashing of the impugned notice and subsequent proceedings will not be a bar on the part of the Income Tax Authorities concerned to initiate any fresh proceeding in future in accordance with law after taking approval from the appropriate specified authority.

In view of the discussion made above, this writ petition being WPA 5755 of 2023 stands disposed of.

(Md. Nizamuddin, J.)