10.04.2023
Sl no. 16
Ct no. 2
P.M.

WPA 6500 OF 2023

Forceful Suppliers Private Limited.
- Vs -
Income Tax Officer, Ward No. 5(1), Kolkata & Ors.

Mr. Avra Mazumder,
Mr. Suman Bhowmik,
Mr. Samrat Das
... for the petitioner
Ms. Smita Das De
... for the respondent

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 25th July, 2022, under Section 148A(d) of the Income Tax Act, 1961 relating to assessment year 2015-2016 on the basis of a notice dated 27th May, 2022 under Section 148A(b) of the Act on the ground that the same is being in total non-application of mind by the Assessing Officer named Bitan Roy, Ward 5(1), Kolkata.

It appears from record that the impugned proceeding has been initiated and notice has been issued relating to the assessment year 2015-2016 but on perusal of the aforesaid impugned order under Section 148A(d) of the Act it appears that the said Assessing Officer has nowhere recorded in his order any fact, transaction or discussion relating to the said Assessment year 2015-2016 and in the whole order, the said Assessing Officer has recorded the facts relating to the assessment year 2013-2014 and even finally has recorded that he was of the opinion that this is a fit case for issuing a notice under Section 148 of the Act relating to assessment year i.e. 2013-2014 while impugned proceeding has been initiated relating to assessment year 2015-2016.

This is the third instance noticed by this Court where such inefficiency and total non-application of mind by the very same Assessing officer Bitan Roy is manifested. Recently on earlier two occasions, in two writ petitions this Court has imposed cost upon Mr. Bitan Roy for issuing notices even after quashing of the same by the Court.

Ms. Das De, learned advocate representing the respondent Assessing Officer is not in a position to defend such conduct of the said Assessing Officer and fairly submits that the aforesaid impugned order under Section 148A(d) of the Act is not tenable in the eye of law and should be quashed.

This Court taking note of such repeated misconducted of Mr. Bitan Roy, was intending to impose heavy cost this time and putting his conduct in his service record but considering prayer of Ms.

Das De for showing leniency this court is sparing the said assessing officer with warning and expecting that the Principal Chief Commissioner, West Bengal and CIT concerned shall take serious note of this order and issue necessary instruction to the Assessing officers of the department who initiate proceedings and issue notices mindlessly.

In view of the discussion made above this writ petition being WPA 6500 of 2023 is disposed of by quashing the impugned order dated 25th July, 2022, under Section 148A(d) of the Income Tax Act, 1961 and all subsequent proceedings.

In the interest of revenue it is observed that quashing of the aforesaid impugned order will not be a bar for initiating the fresh proceeding if law permits.

(Md. Nizamuddin, J.)