WPA 8050 OF 2023

08.05.2023
Sl no. 22
Ct no. 2
P.M.

Rochita Dey

- Vs –

Income Tax Officer, Ward 32 (1), Kolkata & Ors.

Mr. Avra Mazumder,
Mr. SumanBhowmik,
Ms. P. Bandopadhyay,
Mr. Samrat Das

… for the petitioner

Ms. Smita Das De

… for the respondents

Heard learned advocates appearing for the parties.

By this writ petition petitioner has challenged the impugned order dated 16th April, 2022, under Section 148A(d) of the Income Tax Act, 1961 relating to assessment year 2015-2016 on the ground that the objection of the petitioner against notice under Section 148A(b) of the Income Tax Act has not been properly considered and discussed and dealt with by the Assessing Officer while passing the aforesaid impugned order.

I have perused the aforesaid impugned order and find that the same is neither in violation of principle of natural justice by denying any opportunity of hearing to the petitioner, nor there is any procedural irregularity in course of the impugned proceeding nor the order passed by the respondent Assessing officer is having inherent lack of jurisdiction nor the order is patently contrary to any provisions of law.

Furthermore, I find that the Assessing officer has recorded its finding for not accepting the objection of the petitioner. There is a difference between no reason at all and insufficient reason in an order. Sufficiency of the reason at the stage of order under Section 148A(d) of the Act and findings of the respondent officers if it has been supported by reasons, cannot be interfered with by mere contention of the petitioner that its objection has not been properly considered and discussed or the reason is insufficient.

If, according to the petitioner reason in the impugned order is not sufficient and not elaborate the writ court in exercise of its constitutional writ jurisdiction cannot substitute the said reasonings and findings unless Court finds the criteria for invoking constitutional writ jurisdiction under Article 226 of the Constitution of India has been fulfilled.

Furthermore, the impugned order under Section 148A(d) of the Act is neither a final assessment order nor a demand and the assessee petitioner will still have ample scope and opportunity in course of further proceeding subsequent to the order passed under Section 148A(d) of the Act to make out a case for dropping the case of reassessment. If in each and every case under Section 148A(d) of the Act, the Court in exercise of its writ jurisdiction starts scrutinizing the reasons and findings and substitute the same with its own findings, the very purpose of Section 147 of the Income Tax Act will be frustrated and there will be flood of cases in the writ Court.

In view of discussion made above this writ petition being WPA 8050 of 2023 is dismissed.

However, dismissal of this writ petition will not be a bar on the part of the petitioner to take all the points raised in this writ petition, before the Assessing Officer in course of the impugned proceedings subsequent to the impugned order under Section 148A(d) of the Act.

(Md. Nizamuddin, J.)