WPA 12983 OF 2023

22.06.2023
Sl no. 29
Ct no. 2
P.M.

Suraj Singh

- Vs –

Income Tax Officer, Ward-3(1), Asansol & Ors.

Ms. Sutapa Roy Choudhury,
Mr. Abhijat Das,
Mr. Aratrika Roy
... for the petitioner

Mr. Prithu Dudhoria
... for the respondents

Heard learned advocates appearing for the parties.

By this writ petition petitioner has challenged the impugned order under Section 148A(d) of the Income Tax Act, 1961 dated 22nd March, 2023 relating to assessment year 2019-2020 on the ground that the notice under Section 148A(b) of the Act dated 1st March, 2023 was issued without taking approval from the "specified authority" under Section 151 of the Act.

On plain reading of provisions of Section 151 of the Act it appears that for passing any order under Section 148A of the Act an approval from the "specified authority" as described in Section 151 of the Act has to be taken but by no stretch of imagination it can be interpreted in a way that a notice under Section 148A(b) of the Act is also an order and as such I am of the considered view that before issuance of notice under Section 148A(b) of the Act no approval from "specified authority" is required under Section 151 of the Act.

Furthermore, for the reason that the impugned order under Section 148A(d) of the Act is neither a final assessment order nor any demand arises out of it and petitioner has ample opportunity to make a case if it has in its favour, in course of proceeding subsequent to the order under Section 148A(d) of the Act for dropping the proceedings, I am not inclined to interfere with the impugned order. This writ petition being WPA 12983 of 2023 is disposed of by only granting liberty to the petitioner to raise any point of merit of the re-assessment before the assessing officer in course of the proceeding subsequent to the order under Section 148A(d) of the Act.

With this observation and direction this writ petition stands disposed of.

(Md. Nizamuddin, J.)