WPA 14155 OF 2023

30.06.2023
Sl no. 17
Ct no. 2
P.M.

GSP Piling Constructions Private Limited

- Vs –

Assistant Commissioner of Income Tax, Central Circle-4(3), Kolkata & Ors.

Ms. Sutapa Roy Chaudhury,
Ms. Aratrika Roy
... for the petitioner

Mr. Vipul Kundalia,
Mr. Prithu Dudhoria
... for the respondents.

Heard learned advocates appearing for the parties.

By this writ petition petitioner has challenged both the impugned order under Section 148A(d) of the Income Tax Act, 1961 relating to assessment year 2018-2019 and subsequent final assessment order under Section 147 of the Act dated 31st March, 2023 on legality of the merit of the impugned assessment order which is an appellable order under the statute.

Petitioner could not point out any procedural irregularity or illegality in the proceeding subsequent to the order under Section 148A(d) of the Act and in passing the final assessment order under Section 147 of the Act or that the aforesaid final assessment order was passed without granting any opportunity of hearing to the petitioner. On perusal of the impugned assessment under Section 147 of the Act I find that it contains detailed reasoning based on facts and evidences and this Court in exercise of its constitutional writ jurisdiction under Article 226 of the Constitution of India cannot act as an assessing officer or an appellate authority to reappreciate those evidences and findings and substitute with its own in addition statutory alternative remedy by way of appeal is available to the petitioner.

In view of discussion made above even without calling for affidavits from the respondents which according to me is not required since this writ petition is dismissed on the ground of availability of alternative remedy without going into the merit of the impugned assessment order.

(Md. Nizamuddin, J.)