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WPA 15174 of 2023

Venky Hi Tech Ispat Limited
Vs.
Assistant Commissioner of Income Tax, Circle 1(1), Kolkata & Ors.

Mr. Ramesh Kr. Patodia,
Ms. Megha Agarwal
... For the petitioner.
Mr. Vipul Kundalia,
Ms. Aditi Singhania.
... For the respondents.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned notice under Section 148A(b) of the Income Tax Act and all subsequent proceedings on the basis of the aforesaid notice, relating to assessment year 2015-2016, on the ground that the same being without jurisdiction after the approval of the resolution by the NCLT by its order dated January 08, 2019, which is an admitted position. Mr. Kundalia, learned advocate representing the respondent income tax authority is not in a position to deny the aforesaid factual and legal position.

Learned advocate appearing for the petitioner in support of his contention relies, on a decision of the Hon'ble Supreme Court in the case of Ghanashyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited reported in 2021 SCC

Online SC 313, decision of the Bombay High Court in the case of Murli Industries Ltd. Vs. Assistant Commissioner of Income Tax, Nagpur, Maharashtra, Principal Commissioner of Income Tax-1 Nagpur, Union of India reported in 2021 (12) TMI 1182 – Bombay High Court, decision of the Telangana High Court in the case of The Sirpur Paper Mills Ltd. & Anr. Vs. Union of India & Two Ors. reported in 2022 (1) TMI 977 – Telangana High Court and an unreported decision of this Court in the case of Principal Commissioner of Income Tax – 4, Kolkata Vs. M/s. Tantia Construction Ltd. in ITA/184/2018 dated 27th February, 2023.

Considering the submission of the parties and in view of the aforesaid judgment of the Hon'ble Supreme Court and other High Courts including this High Court, it is held that the impugned notice under Section 148A(b) of the Income Tax Act dated May 27, 2022 and all subsequent proceedings are without jurisdiction and are not tenable in the eye of law and as a consequence of this declaration, all legal consequences will automatically follow.

With this observation and direction, this writ petition being WPA 15174 of 2023 stands disposed of.

(Md. Nizamuddin, J.)