04.09.2023
PB
Sl. No.7.

WPA 19361 of 2023

Dinesh Kumar Goyal
Vs
Union of India & Ors.

Mr. Pratyush Patwari.
... For the Petitioner.
Mr. Soumen Bhattacharya.
......for the respondents.

Heard learned advocates appearing for the parties.

By this writ petition, the petitioner has challenged the impugned assessment order dated 31st March, 2023, passed under Section 147 read with Section 144B of the Income Tax Act, 1961 relating to assessment year 2013-14 by filing this writ petition on 9th August, 2023. It is worth mentioning that the aforesaid impugned assessment order was passed subsequent to the order dated 25th March, 2023 under Section 148A(d) of the Income Tax Act, 1961 and subsequent notice under Section 148 of the Act which were not challenged by the petitioner at the relevant point of time and allowed the proceedings subsequent to the order under Section 148A(d) of the Act which was passed on 25th March, 2022 to culminate into the final assessment order under Section 147 of the Act on 23rd May, 2023 after participating in the said proceedings and the said final assessment order is an appellable order. Had it been the case of the petitioner that the order under Section 148A(d) of the Act was illegal which was passed on 25th March, 2022 the petitioner should not have waited and allowed the culmination of the same into final assessment order and approach this Court at this stage.

Mr. Bhattacharya, learned advocate appearing for the respondent income tax authority opposing the writ petition relies on a decision of a Division Bench of this Court dated 23rd August, 2023 in APOT/229/2023 in the case of Karnani Promoters Private Limited vs. Income Tax Officer, Ward 7(1) and Ors.) where even at the stage of passing order under Section 148A(d) of the Act, the petitioner has approached the writ Court but during the pendency of the writ petition, final assessment order was passed, the appeal Court has held that since the final assessment order has been passed which is an appellable order, the petitioner was asked to exhaust its remedy before the appellate authority.

In view of the discussions made above, this writ petition being WPA 19361 of 2023 is dismissed.

(Md. Nizamuddin, J.)