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WPA 29015 of 2022

Accord Capital Markets Private Limited
Vs
Income Tax Officer, Ward No.10(2), Kolkata & Ors.

Mr. Avra Mazumder,
Mr. Soumitra Chowdhury,
Mr. Suman Bhowmik,
Mr. Samrat Das
... For the Petitioner.
Mr. Pithu Dudharia
... For the Respondents.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 29th July, 2022, under Section 148A(d) of the Income Tax Act, 1961 relating to assessment year 2015-16 mainly on the two grounds that the impugned order has been passed without approval from the specified Authority under Section 151(ii) of the Income Tax Act, 1961 before passing the aforesaid impugned order under Section 148A(d) of the Act and secondly, on the ground that its objections/replies against the notice under Section 148A(b) of the Act has not been properly considered and dealt with and the order has been passed in a mechanical manner. So far as the first ground of approval is concerned, I find from the documents annexed to the writ petition itself that approval was taken in this case from Principal Chief CIT on 27th July, 2021, before passing the impugned order on 29th

July, 2021. So the first ground taken by the petitioner fails. Now, so far as the second ground of non-consideration of the petitioner's objection is concerned, on perusal of the aforesaid impugned order I find that the Assessing Officer has considered the same and on the material available before him has come to the conclusion that the Assessee/petitioner failed to explain the transaction regarding derivative loss and there is serious allegation against the petitioner that Assessee/petitioner has made claim of fictitious loss and that the same is not genuine. These facts are to be adjudicated by the Assessing Officer in course of assessment proceedings after issuance of notice under Section 148 of the Act subsequent to the order passed under Section 148A(d) of the Act. This court in exercise of Constitutional writ jurisdiction under Article 226 should not interfere in these types of cases where full-fledged investigations are required on alleged fictitious transaction/claim and all these are matters of evidence which cannot be appreciated by the writ court. This is not a case which falls under the category where impugned order has been passed without jurisdiction or there is violation of any principle of natural justice or there is any procedural irregularity or the impugned order has been passed in clear violation of any statutory provision of the statute.

In view of the discussion made above, I am not inclined to entertain this writ petition being WPA 29015 of 2022 and the same is dismissed.

However, finding any observation made in this order will not have any impact on the final assessment order to be passed by the Assessing Officer.

(Md. Nizamuddin, J.)