OD –3

ORDER SHEET

WPO/26/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

LAKSHYA VINTRADE PRIVATE LIMITED
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 16th January, 2023.

Appearance:
Mr. Pranit Bag, Adv.
Mr. Debdatta Saha, Adv.
Ms. Namita Agarwal, Adv.
...For the Petitioner

Mrs. Smita Das De, Adv.
...For the Revenue

The Court: Heard learned counsel appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 7th July, 2022 under Section 148 of the Income Tax Act, 1961 relating to assessment year 2018-19 on the ground that while passing the aforesaid impugned order under Section 148A(d) of the Act, the respondent Assessing Officer has not considered and discussed in detail its objection to the show cause notice issued under Section 148A(b) of the Income Tax Act, 1961. On perusal of the aforesaid impugned order under Section 148A(d) of the Act I do not find any violation of principles of natural justice by denying the opportunity of hearing to the petitioner or any procedural irregularity or that the aforesaid impugned order is contrary to any specific provision of the statute or that the same is without jurisdiction. What I find from the crux of the submission made by Mr. Bag, learned advocate representing the petitioner is that according to the petitioner the impugned order is not reasonable and satisfactory and having no detail discussion and consideration on the objection filed by it. I have considered the findings and observation made by the respondent assessing officer in paragraphs 3 and 4 of the impugned order under Section 148A(d) of the Act. The sole ground by the petitioner for challenging the impugned order under Section 148A(d) of the Act is that the same is not a speaking order and the reasons recorded therein are not well-reasoned and satisfactory which according to me cannot be a ground for interference with the same by invoking Constitutional Writ Jurisdiction of this Court under Article 226 of the Constitution of India.

This Court in exercise of Constitutional Writ Jurisdiction cannot substitute findings and reasoning of the assessing Authority with its own when the same has been passed by observing principles of natural justice and by not committing any procedural irregularity or in contravention of any statutory provision or is without jurisdiction. Furthermore, the impugned order under Section 148A(d) of the Act is not a final assessment order resulting in any demand and the petitioner will still have ample scope and opportunity to make out a case for dropping the impugned reassessment proceeding after the issuance of notice under Section 148 of the Act subsequent to the impugned order passed under Section 148A(d) of the Act.

In view of the discussion made above, I am not inclined to entertain this writ petition being WPO 26 of 2023 and the same is accordingly dismissed.

However, dismissal of the writ petition will not be a bar on the part of the petitioner to take all the points raised in this writ petition before the assessing officer in the proceeding subsequent to the impugned order passed under Section 148A(d) of the Act.

(MD. NIZAMUDDIN, J.)

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