OD –10

ORDER SHEET

WPO/59/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

GAURAV SHARMA
VS
NATIONAL FACELSSS ASSESSMENT CENTRE, INCOME TAX DEPARTMENT, MINS OF FINANCE, GOI DELHI AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 17th January, 2023.

Appearance:
Mr. J.P. Khaitan, Sr.Adv.
Mr. Sanjoy Bhowmik, Adv.
Mr. A. K. Dey, Adv.
...For the Petitioner

Mr. Aryak Dutt, Adv.
Mr. Soumen Bhattacharjee, Adv.
...For the Revenue

The Court: Heard Mr. Khaitan, learned senior counsel representing the petitioner and Mr. Dutt representing the respondent Income Tax Authorities.

By this writ petition, petitioner has challenged the impugned assessment order dated 17th December, 2022, under Section 143(3) read with Section 144B of the Income Tax Act, 1961, relating to assessment year 2021-22 on the ground that the impugned assessment order has not properly considered and discussed with the objection raised by the petitioner and at the impugned assessment order does not contain satisfactory reason and petitioner challenges the sufficiency of the reasons in the aforesaid assessment order which is an appealable order.

I have perused the aforesaid impugned assessment order and the reasons given therein. There is a difference between no reason and insufficiency of reason. This is not a case of no reason at all being given by the assessing officer in its assessment order, sufficiency of a reason given by the Authorities which are based on facts and evidence and findings on such facts and evidence cannot be substituted by this Court in exercise of Constitutional Writ Jurisdiction under Article 226 of the Constitution of India with its reasons by acting an Appellate Authority over the assessment order of the assessing officer. Furthermore, this is not a case which falls in the category of those cases where there are patent violation of principles of natural justice or the order is without jurisdiction or is contrary to any specific provision of the statute or that the issue raised in this writ petition there is a specific bar on the part of the Appellate Authority to adjudicate the same.

In view of the discussion made above, I am not inclined to entertain this writ petition being WPO 59 of 2023 and the same is accordingly dismissed.

However, any observation made in this order will have no impact on the Appellate Authority on merit if any appeal is filed by the petitioner within fortnight from date before the appropriate forum.

(MD. NIZAMUDDIN, J.)

TR/