OD-3

IN THE HIGH COURT AT CALCUTTA
Constitution Writ Jurisdiction
ORIGINAL SIDE

WPO/187/2023

AJAY KUMAR GUPTA
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 13th March, 2023

Appearance;
Mr. Pratyush Jhunjhunwala, Adv.
Mr. M. Kejriwal, Adv.
...for the petitioner

Mr. Om Narayan Rai, Adv.
...for the respondents

The Court :- Supplementary affidavit filed on behalf of the petitioner be kept with the records.

Heard the learned Advocates appearing for the parties.

By this writ petition the petitioner has challenged the impugned order dated 12th April, 2022, under Section 148A(d) of the Income Tax Act, 1961, relating to assessment years 2018-2019 on the ground that the reasons and material referred in the aforesaid impugned order is not sufficient to invoke the provisions for reassessment/reopening of the assessment.

I have perused the aforesaid impugned order which is based on material evidence which cannot be re-appreciated by this Court in exercise of constitutional writ jurisdiction under Article 226 of the Constitution of India. In addition, this case does not fall in those categories of cases where an order is passed without jurisdiction or in violation of principal of natural justice or any procedural irregularity has been committed by the Assessing Officer in passing the impugned order. There is a difference between insufficiency of the reasons and no reason at all in an order. It is not a case here that no reasons at all has been recorded in the aforesaid impugned order. Furthermore, an order under Section 148A(d) of the Income Tax Act, 1961 is not a final assessment order nor it is a demand and petitioner still has ample scope in course of proceeding subsequent to issuance of notice under Section 148 of the Act after the order under Section 148A(d) of the Act to make out a case before the Assessing Officer for dropping the reassessment proceeding.

Considering the facts and circumstances of the case and in view of the discussion made above, this writ petition being WPO/187/2023 is dismissed.

However, dismissal of this writ petition will not be a bar for the petitioner to take the points raised in this writ petition, in course of the reassessment proceeding.

(MD. NIZAMUDDIN, J.)

S.Bag