OD –10

ORDER SHEET

WPO/831/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SHREE KUMAR LAKHOTIA
VS
UNION OF INDIA AND ORS

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 26th April, 2023.

Appearance:
Mr. Subash Agarwal, Adv.
Mr. Brijesh Kumar Singh, Adv.
...For the Petitioner

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

The Court : Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 25th July, 2022 under Section 148A(d) of the Income Tax Act, 1961 and subsequent proceedings relating to assessment year 2017-18 by contending that in the impugned proceeding no sanction was taken from the specified authority under Section 151 of the Income Tax Act, 1961. It appears from record that the impugned order under Section 148A(d) was passed by taking approval from the Principal Chief Commissioner of Income Tax, West Bengal and Sikkim who is the appropriate authority for sanction as per Section 151 of the Act but all subsequent notices are on the basis of approval/sanction from the authority who is not the 'specified authority' under the aforesaid provision of law.

Considering the facts and circumstances of the case, I am not inclined to interfere with the impugned order under Section 148A(d) of the Act. However, I am of the view that all the proceedings subsequent to the impugned order under Section 148A(d) of the Act are not sustainable in law and accordingly, the same are quashed with liberty to the assessing officer concerned to proceed afresh after the stage of order under Section 148A(d) of the Act by taking sanction from the correct specified authority.

With these observations and directions, this writ petition being WPO 831 of 2023 stands disposed of.

(MD. NIZAMUDDIN, J.)

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(MD. NIZAMUDDIN, J.)

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