OD-1&2

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

IA NO. GA/1/2023
In WPO/868/2023

INCOME TAX OFFICER WARD 8/1 AND ORS
Vs
AMBER COMMODEAL PRIVATE LIMITED

IA NO. GA/2/2023
In WPO/868/2023

INCOME TAX OFFICER WARD 8/1 AND ORS
Vs
AMBER COMMODEAL PRIVATE LIMITED

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

Appearance:
Mr. Prithu Dudheria Adv.
... for the applicant.

Ms. Swapna Das, Adv.
Mr. S. Das, Adv.
..for the respondent.

IA No. GA/2/2023

The Court: This is an application filed by the applicant Deputy Commissioner of Income Tax, Central Circle 4(1), Kolkata, the present assessing officer, for addition of party respondent in the writ petition being WPO No. 868 of 2023.

Considering the averments made in this application being GA/2/2023, the application is disposed of by allowing the same, by adding the aforesaid applicant as party respondent.

IA No. GA/1/2023

This is an application for recalling of the order of this Court dated 27th

April, 2023 passed in WPO No. 868 of 2023 granting stay of the impugned proceeding subsequent to the order under Section 148A(d) of the Income Tax Act, 1961, relating to assessment year 2015-16, on the ground that the said order has been obtained by the writ petitioner by making deliberate suppression of fact and making false representation in spite of having notice and knowledge that before passing of the aforesaid order on 27th April, 2023, already the final assessment order was passed under Section 147 of the Act on 24th March, 2023. Petitioner has made further suppression by not disclosing at the time of hearing of the writ petition on 27th April, 2023 that petitioner had already appealed against the final assessment order on 23rd April, 2023. Learned Advocate for the petitioner submits that their client/petitioner has suppressed these facts to them also and submitted that they can't defend such conduct of their client/petitioner. This act of suppression or deliberate suppression and misleading the highest Court of the State in obtaining the interim order by the petitioner is highly condemnable and petitioner is liable to be prosecuted. However, the petitioner is spared on condition of imposition of cost of Rs.1,00,000/- to be paid to the West Bengal State Legal Services Authority within a week from date and it shall file receipt of payment of the same before this Court on 25th September, 2023.

The writ petition being WPO No. 868 of 2023 is dismissed and the interim order dated 27th April, 2023 is vacated and GA/1/2023 is disposed of.

List the matter on 25th September, 2023 as `To Be Mentioned' for filing the receipt of payment of the cost in compliance of this order of the Court.

(MD. NIZAMUDDIN, J.)

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