OD –5

ORDER SHEET
WPO/953/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

NAVYA METALS PRIVATE LIMITED
VS
THE INCOME TAX OFFICER, WARD 1(1) AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 15th May, 2023.

Appearance:
Mr. Sourav Bagaria, Adv.
Mr. Rites Goel, Adv.
...For the Petitioner
Mr. Tilok Mitra, Adv.
Mr. Soumen Bhattacharjee, Adv.
...For the Respondents

The Court: Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned reassessment order under Section 147 of the Income Tax Act, 1961, dated 24th March, 2023 relating to assessment year 2018-19 and I have perused the aforesaid impugned assessment order containing 26 pages having elaborate discussion and reasoning having reference of huge material documents relating to the genuineness of purchase/expenses or sales and documentary evidence relating to dubious financial transaction with different entities. This Writ Court in exercise of its Constitutional Writ Jurisdiction under Article 226 of the Constitution of India cannot act as an assessing officer or an appellate authority and scrutinize the aforesaid impugned assessment order which is based on huge materials/documentary evidences and to substitute the findings of the assessing officer based on such materials and substitute such findings. More so, the impugned order is an appealable order before the CIT(Appeals) which has got ample power to consider an assessment order both on facts and on law and there is no statutory bar on the part of the appellate authority in considering the issues raised in this writ petition. It is not the case which falls in those categories of cases where the impugned order has been passed is not speaking one or having no reason or is contrary to any specific provision of law or is without jurisdiction.

However, without going into the merit of the impugned assessment order based on material evidence, on the ground of availability of alternative remedy by way of appeal, this writ petition being WPO 953 of 2023 is dismissed.

However, dismissal of this 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 appellate authority.

(MD. NIZAMUDDIN, J.)

TR/