OD –22

ORDER SHEET

WPO/969/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

VINAY KUMAR SINGH
VS
UNION OF INDIA AND ORS

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 3rd May, 2023.

Appearance:
Mr. Om Prakash Prasad, Adv.
...For the Petitioner

Mr. Prithu Dudhoria, Adv.
...For the Respondents

The Court : Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 29th July, 2022 under Section 148A(d) of the Income Tax Act, 1961 relating to assessment year 2017-18 by raising the pure question of law relating to the jurisdiction of the assessing officer concerned in passing the aforesaid impugned order by non-compliance of the formalities of taking approval of the specified authority mentioned in Section 151(ii) of the Income Tax Act, 1961.

Admitted position in this case is that impugned order under Section 148A(d) of the Act has been passed after a lapse of three years from the end of the relevant assessment year and in this case specified authority is not the Principal Commissioner of Income Tax from whom approval has been taken before passing the aforesaid impugned order and it appears on a plain reading of Section 151(ii) of the said Act that Principal CIT from whom approval has been taken is not the specified authority for the purpose of approval under Section 148 and Section 148A of the Income Tax Act, 1961.

Considering the facts and circumstances of this case, submission of the parties and the aforesaid factual and legal position, the aforesaid impugned order under Section 148A(d) of the Act dated 29th July, 2022 and all subsequent proceedings are quashed.

However, quashing of the impugned order and subsequent proceedings will not be a bar on the part of the Income Tax Authorities concerned to proceed further in accordance with law from the stage such irregularity has been committed, after taking approval from the 'specified authority'.

In view of the discussion and observation made above, this writ petition being WPO 969 of 2023 stands disposed of.

(MD. NIZAMUDDIN, J.)

TR/