OD –9

ORDER SHEET
WPO/983/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

RAJENDRA PRASAD MODY
VS
UNION OF INDIA AND ORS.

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

Appearance:
Mr. Amit Agarwal, Adv.
...For the Petitioner
Mr. Aryak Dutt, Adv.
...For the Respondents

The Court: Heard learned counsel appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 6th April, 2023 under Section 148A(d) of the Income Tax Act, 1961 relating to assessment year 2016-17 inter alia on the hyper-technical ground of not mentioning Document Identification Number (DIN) in approval of draft order. On perusal of the aforesaid impugned order I find the DIN number has been mentioned therein and in the concluding paragraph no. 7 of the aforesaid impugned order it has been recorded that the aforesaid impugned order has been passed by approval of the specific authority under Section 151(ii) of the Income Tax Act, 1961. In addition petitioner challenges the aforesaid impugned order under Section 148A(d) of the Act on merit which I find is based on material evidence and documents as recorded in detail in the impugned order.

I have perused the aforesaid impugned order under Section 148A(d) of the Act and find that the same is neither in violation of principles of natural justice nor contrary to any specific provision of law nor the impugned order is without jurisdiction and I find the same is well reasoned assessment order with sufficient material upon which the assessing officer has come to a conclusion. 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 to scrutinize the material evidence and findings recorded in an order by the assessing officer. In addition, petitioner has still ample scope to make out his case if he has in his favour subsequent to the proceeding under Section 148A(d) of the Act after issuance of notice under Section 148 of the Act since the impugned order under Section 148A(d) of the Act is neither a final assessment order nor a demand arising at this stage.

In view of the discussion made above, this writ petition being WPO 953 of 2023 is dismissed.

(MD. NIZAMUDDIN, J.)

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