OD –19

ORDER SHEET
WPO/1046/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SRI NARAYAN MERCANTILES PVT LTD
VS
INCOME TAX OFFICER WARD 2/1 KOLKATA AND ORS.

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

Appearance:
Ms. Swapna Das, Adv.
...For the Petitioner.

Mr. Vipul Kundalia, Adv.
Mr. Amit Sharma, Adv.
...For the Respondents

The Court: Heard learned counsel appearing for the parties.

By this writ petition the petitioner has challenged the impugned order dated 29th July, 2022 relating to assessment year 2015-16 under Section 148A(d) of the Income Tax Act, 1961.

I have perused the aforesaid impugned order from which it appears that the case relates to a scam in which the assessee was involved and the said scam which was conducted in F & O (Future & Option) derivative segment on the share market platform by a syndicate of share broker and entry operators who were providing accommodation entries of profit/loss as per requirement to various beneficiaries entities in lieu of cash commission. It has also been recorded in this case as appears in the impugned order under Section 148A(d) of the Act that in this case transactions have been made through share Broker one M/s. Basan Equity Broking Limited Pvt. Ltd. which is a dubious broker and the assessee is beneficiary of booking fictitious loss incurred through two separate equity/currency derivative trading by the method of reversal trading illiquid stock options during the financial year 2014-15 amounting to Rs. 2,47,50,600/- in total. It also appears from record as has been recorded on the basis of information in possession of the department that there were frequent cash deposits in current account of Axis Bank of a proprietorship concern Shiv Shakti (prop: Raja Roy) and there were also huge amount of to and fro cash movement in 14 other bank accounts of the said concern and subsequently transferred to bank accounts of various other entities without any business relevance. In addition it appeared in this case, on investigation that petitioner is a beneficiary, there is reference to several other mere paper companies having no real business activity with whom petitioner has claimed transactions. On materials available before the department, it is of the view that there is escapement of Rs.2,58,80,475/- in the hands of the petitioner during the relevant assessment year 2015-16.

Considering the aforesaid serious financial scam unearthed on investigation with supporting material evidence, I am not inclined to entertain this writ petition by exercising constitutional writ jurisdiction of this Court under Article 226 of the Constitution of India and dismiss this writ petition being W.P.O. No. 1046 of 2023 by directing the Principle Chief Commissioner of Income Tax, West Bengal & Sikkim to refer this case to Enforcement Directorate (ED) for investigation.

Accordingly, this writ petition, WPO/1046/2023 is dismissed.

(MD. NIZAMUDDIN, J.)

A/s.