

ORDER SHEET
WPO/1120/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

JNANENDRA NATH DAS BAIRAGYA
VS
UNION OF INDIA AND ORS.

BEFORE:

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date: 8th June, 2023.

Appearance:
Mr. Subash Agarwal, Adv.
Mr. Brijesh Kumar Singh, Adv.
...For the Petitioner
Mr. Vipul Kundalia, Adv.
Mr. Aryak Dutt, Adv.
...For the Respondents

The Court: Heard the learned advocates appearing for the parties.

By this writ petition petitioner has challenged the impugned order under Section 148A(d) of the Income Tax Act, 1961 dated 31st March, 2023 relating to assessment year 2016-17. Petitioner submits that in the impugned order, petitioner's objection has not been properly considered and that there could not be any material against the petitioner to proceed with the impugned proceeding.

I have perused the aforesaid impugned order. I find that the same has neither been passed in violation of principles of natural justice nor is contrary to any provision of law nor the same is without jurisdiction. Sufficiency of the reasons and findings in the order under Section 148A(d) of the Act cannot be re-appreciated and scrutinised by this Court in exercise of Constitutional Writ Jurisdiction under Article 226 of the Constitution of India. Matter would have been different had the assessing officer not given any reason at all or had not referred the objection of the petitioner. Just by

mere coming to a different conclusion on the basis of the objection or the material furnished by the petitioner cannot be a ground of invoking Constitutional Writ Jurisdiction under Article 226 of the Constitution of India. Furthermore, petitioner still has ample opportunity after the passing of the impugned order, in the subsequent proceeding, after issuance of notice under Section 148 of the Act and before passing the order under Section 147 of the Act to make out its case if it has any.

In view of the discussion made above, this writ petition being WPO 1120 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 assessing officer in course of impugned proceeding.

(MD. NIZAMUDDIN, J.)

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