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ORDER SHEET
WPO/1124/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

N.R. TRADING COMPANY PRIVATE LIMITED
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 19th June, 2023.

Appearance:
Mr. Pranit Bag, Adv.
Mr. Anuj Kr. Mishra, Adv.
Mr. Balaram Patra, Adv.
Mr. Debdutta Saha, Adv.
...For the Petitioner
Mr. Aryak Dutt, Adv.
...For the Respondents

The Court: Heard learned advocates appearing for the parties.

Supplementary affidavit filed in Court be kept with the record.

By this writ petition, petitioner has challenged the impugned order dated 27th July, 2022 under Section 148A(d) of the Income Tax Act, 1961 relating to assessment year 2013-14 by filing this writ petition on 12th May, 2023 that is almost after ten months after passing the aforesaid impugned order. Petitioner has further challenged the final assessment order under Section 147 of the Act passed on 22nd May, 2023 by way of supplementary affidavit which was passed during the pendency of the writ petition. After the impugned order under Section 148A(d) of the Act was passed, show cause notices under Sections 148, 142(1) and 143(2) were issued and petitioner has participated in the said proceeding by responding to the aforesaid notices which was issued from time to time. I find that there is no procedural irregularity in passing the final assessment order under Section

147 of the Act which is an appealable order and in which petitioner has participated. When the impugned order was passed on 27th July, 2022 and subsequent to the aforesaid impugned order the notices were issued, petitioner did not challenge the same immediately after passing the same and participated in the proceeding and final assessment order was passed which is an appealable order. On perusal of the aforesaid impugned order under Section 147 of the Act which was challenged by way of supplementary affidavit I find that the same has been passed neither in violation of principles of natural justice nor there is any procedural irregularity and that the impugned order is a speaking order. Furthermore I find the nature of allegation against the petitioner as appears from recording in the order under Section 148A(d) is that the department had credible information about the involvement of the petitioner in accommodation entries of Rs. 4,24,17,913/- from one Bharat Lal who opened the bank account in question with Allahabad Bank having no real business activities and no premises was found at the given address as per Inspector's report. It has also been recorded in the aforesaid impugned order under Section 148A(d) of the Act that the bank account of said Bharat Lal was frequently credited by huge cash deposits or transfer/RTGS/clearing and subsequently transferred to various beneficiaries leading to washing of funds and that the said Bharat Lal was engaged in providing the bogus billing and providing entries of various beneficiaries. Finally after the assessment order under Section 147 of the Act the aforesaid accommodation entries amount has been held as an unexplained money under Section 69A of the Act in the hands of the assessee petitioner. This 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 to scrutinise or re-appreciate the aforesaid allegations and substitute with its own findings since these are matters of evidence and investigation.

In view of the discussion made above, this Court is not inclined to entertain its jurisdiction under Article 226 of the Constitution of India and the writ petition being WPO 1124 of 2023 is dismissed.

However, dismissal of this writ petition and any findings and observations in this order will not be a bar on the part of the petitioner in filing the statutory appeal and taking all the points raised in this writ petition before the appellate authoroity.

(MD. NIZAMUDDIN, J.)

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