OD –8

ORDER SHEET
WPO/1195/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

NARAYANI COKE PRIVATE LIMITED
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 5th July, 2023.

Appearance:
Mr. Subash Agarwal, Adv.
Mr. Brijesh Kumar Singh, Adv.
...For the Petitioner
Mrs. Smita Das De, Adv.
...For the Respondents

The Court: Heard learned counsel appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 19th April, 2023 under Section 148A(d) of the Income Tax Act, 1961 relating to assessment year 2016-17 on the ground that the same has been passed in total non-application of mind by the assessing officer as appears from the concluding portion of the aforesaid order where it has been recorded that it is a fit case for issuance of notice under Section 148 of the Act in the case of one Imperial Fragrances and Flavours Private Limited while in this case petitioner assessee is one Narayani Coke Private Limited. Since this is a mistake apparent from record and it is curable and for such mistake due to inadvertence or fault by assessing officer, Government revenue should not suffer and assessee cannot go unassessed or untaxed.

Considering the facts and circumstances of the case as appears from record and submissions of the parties, the assessing officer concerned is restrained from proceeding any further on the basis of aforesaid impugned order dated 19th April, 2023 under Section 148A(d) of the Act without making proper rectification under Section 154 of the Income Tax Act, 1961.

So far as allegation of the petitioner of non-supply of document in spite of specifically asking for the same before passing the impugned order under Section 148A(d) of the Act is concerned, it is needless to mention that the same shall be supplied to the petitioner if the same has not been supplied and the assessing officer intends to rely on the same.

With these observations and directions, this writ petition being WPO 1195 of 2023 stands disposed of.

(MD. NIZAMUDDIN, J.)

TR/