OD –9

ORDER SHEET
WPO/1218/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SRI RAMAKRISHNA MUKHUTY AND ORS.
VS
NATIONAL FACELESS ASSESSMENT CENTER AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 6th July, 2023.

Appearance:
Mr. Abhratosh Majumder, Sr. Adv.
Mr. Avra Mazumder, Adv.
Mr. Kausheyo Roy, Adv.
...For the Petitioner
Mr. Amit Sharma, Adv.
...For the Respondents

The Court: Heard learned counsel appearing for the parties.

By this writ petition, petitioner has challenged the impugned assessment order under Section 147 read with Section 144/144B of the Income Tax Act, 1961, dated 21st March, 2023 relating to assessment year 2018-19 on the basis of notice under Section 148 of the Act and before passing the aforesaid impugned final assessment order which is an appealable order under the statute, all the procedures like a regular assessment was followed by issuance of notices under Section 142(1) and 143(2) of the Act and opportunity of hearing was also provided. Though Mr. Majumder, learned senior advocate submits that in course of the aforesaid assessment proceeding a show cause notice was issued and the assessing officer at the time of passing final assessment order has taken a different view from the view it has taken in the show cause notice.

Considering the facts and circumstances of the case I find that this is not a case which falls under those categories of cases where the impugned proceeding initiated was without jurisdiction or has been initiated by officer having inherent lack of jurisdiction or there is any procedural irregularity or that the order is a non-speaking order or that any violation of principles of natural justice has been committed by denying the petitioner to provide any opportunity of hearing. What I understand from the argument and submission of Mr. Mazumder, learned senior advocate appearing for the petitioner that the whole argument of the petitioner revolves around the merits of the assessment itself as to whether the receipt in question was taxable or not and at whose hand it was taxable to which I am of the view that the Writ Court while dealing with an assessment order does not act either as an assessing officer or an appellate authority and the merit of the assessment and the issue of taxability and at whose hand the receipt is to be taxable can be decided by statutory appellate authority who has got wide jurisdiction go into the facts and law and it will not be proper on the part of the Writ Court to decide the aforesaid issues.

In view of the discussion made above, I find no reason to interfere with the aforesaid impugned appealable assessment order and accordingly this writ petition being WPO 1218 of 2023 is dismissed.

(MD. NIZAMUDDIN, J.)

TR/