OD –7

ORDER SHEET
WPO/1243/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

AGARWALLA UDYOG PVT. LTD.
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 17th July, 2023.

Appearance:
Mr. Pranit Bag, Adv.
Mr. Anirudhya Dutta, Adv.
...For the Petitioner
Mrs. Smita Das De, Adv.
...For the Respondents

The Court: Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 26th April, 2023, under Section 148A(d) of the Income Tax Act, 1961 and subsequent notice under Section 148 of the Act.

I have perused the aforesaid order under Section 148A(d) of the Act and find that the same is neither without jurisdiction nor contrary to any provision of law nor any procedural irregularity has been committed in course of passing the aforesaid order nor there is any violation of principles of natural justice. On perusal of the aforesaid impugned order I find that the same is a detailed reasoned order based on material evidence which cannot be re-appreciated by this Court like an assessing officer or an appellate authority. In absence of fulfillment of any of the aforesaid criteria for entertaining the writ petition if the writ petition is entertained at the stage of passing order under Section 148A(d) and notice under Section 148 of the Act and is interfered then it would mean that there is no difference between the order under Section 148A(d) of the Act and final assessment order under Section 147 of the Act and in each and every case assessing officer will have to pass order under Section 148A(d) like final assessment order under Section 147 of the Act and all proceeding and notices under Section 142 (1) and 142 (2) of the Act subsequent to the order under Section 148A(d) of the Act will become an idle formality for the assessing officer which certainly could not have been the intention of the legislature.

In view of the discussion made above I am not inclined to entertain this writ petition being WPO 1243 of 2023 and accordingly the same is dismissed.

However, dismissal of this writ petition will not prevent the petitioner from raising all the points raised in this writ petition in course of proceeding subsequent to the order under Section 148A(d) of the Act and also to ask for the relevant documents which assessing officer will be bound to furnish in accordance with law.

(MD. NIZAMUDDIN, J.)

TR/