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ORDER SHEET

WPO 1451 of 2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

DINBANDHU CONSTRUCTION LLP FORMERLY
DINBANDHU CONSTRUCTION PRIVATE LIMITED
Vs
INCOME TAX OFFICER WARD 6/1 KOLKATA AND ORS.

BEFORE:

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date : 22nd August, 2023.

Ms. Swapna Das, Adv.
Mr. Siddharth Das, Adv.
...For the petitioner
Mr. Aryak Dutt, Adv.
...for the respondents

The Court: Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 28th July, 2022, under Section 148A(d) of the Income Tax Act, 1961 relating to assessment year 2014-15 and all subsequent proceeding on the ground that the initiation of the impugned proceeding is not maintainable which has been initiated against a non-existing entity named Dinbandhu Construction Private Limited which has already been converted into an LLP with effect from 25th April, 2019 and this fact of conversion was already intimated to the department prior to the issuance of the impugned notice under Section 148A(b) of the Act which is matters of record.

Mr. Dutt, learned advocate appearing for the respondent Income Tax Authority is not in a position to contradict the aforesaid allegation of the petitioner that the impugned proceeding has been initiated against an entity which is not in existence in spite of having notice and knowledge of the same by the department.

Considering the facts and circumstances of the case as appears from record and submissions of the parties, this writ petition being WPO 1451 of 2023 is disposed of by quashing the aforesaid notice dated 31st May, 2022 under Section 148A(b) of the Act relating to assessment year 2014-15 and all subsequent proceeding based on the aforesaid notice.

However, quashing of the impugned proceeding will not be a bar on the part of the respondent Income Tax Authority to initiate any fresh proceeding in accordance with law.

(MD. NIZAMUDDIN, J.)

TR/