OD-1

WP/1513/2023

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

OVERSEAS CORPORATION PVT. LTD.

-Versus-

UNION OF INDIA AND ORS.

BEFORE
The Hon'ble Justice MD. NIZAMUDDIN
Date: 31st August, 2023

APPEARANCE:
Mr.Kumarhjit Banerjee, Adv.
Ms. Sanchari Chakraborty, Adv.
Ms. Akanksha Chowdhury, Adv.
...for the petitioner.

Mr. Soumen Bhattacharyya, Adv.
...for the respondent.

The Court: Hearing learned advocate appearing for the parties.

By this writ petition, the petitioner has challenged the impugned assessment order dated 23rd May, 2023, passed under Section 147 read with Section 144B of the Income Tax Act, 1961 relating to assessment year 2013-14. The petitioner filed the writ petition on 16th August, 2023. It is worth mentioning that the aforesaid impugned assessment order was passed subsequent to the order dated 20th July, 2022 under

Section 148A(d) of the Income Tax Act, 1961 and subsequent notice under Section 148 of the Act which were not challenged by the petitioner at the relevant point of time and allowed the proceedings subsequent to the order under Section 148A(d) of the Act which was passed on 20th July, 2022 to culminate into the final assessment order under Section 147 of the Act on 23rd May, 2023 after participating in the said proceedings and the said final assessment order is an appealable order. Had it been the case of the petitioner that the order under Section 148A(d) of the Act was illegal which was passed on 20th July, 2022 the petitioner should not have waited and allowed the culmination of the same into final assessment order and approach this Court at this stage.

Mr. Bhattacharyya, learned advocate appearing for the respondent income tax authority opposing the writ petition relies on a decision of a Division Bench of this Court dated 23rd August, 2023 in APOT/229/2023 in the case of *Karnani Promoters Private Limited vs. Income Tax Officer, Ward 7(1) and Ors.)* where even at the stage of passing order under Section 148A(d) of the Act, the petitioner has approached the writ Court but during the pendency of the writ petition, final assessment order was passed, the appeal Court has held that since the final assessment order has been passed which is an appealable order, the petitioner was asked to exhaust its remedy before the appellate authority.

In view of the discussions made above, this writ petition being WPO/1513/2023 is dismissed.

(MD. NIZAMUDDIN, J.)

A/s.