OD –11

ORDER SHEET
WPO/1525/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SHIVA FERROUS PRIVATE LIMITED
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 28th August, 2023.

Appearance:
Mr. Brijesh Kumar Singh, Adv.
Mr. Om Prakash Prasad, Adv.
...For the Petitioner
Mr. Amit Sharma, Adv.
...For the respondents

The Court: Heard the learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 15th April, 2023, under Section 148A(d) of the Income Tax Act, 1961 relating to assessment year 2019-20 and subsequent notice under Section 148 of the Act on the ground that the aforesaid impugned order has been passed without considering the objection and contention raised by the petitioner in its objection to the notice dated 30th March, 2023 under Section 148A(b) of the Act and that the same is in total non-application of mind since from nowhere it appears from the impugned order that the alleged transaction with the three entities in question has at all any relevance or link with the petitioner. Furthermore even the statement of the witnesses upon the which the assessing officer has relied in its impugned adjudication order does not prima facie establish any link or involvement of the petitioner in the alleged transaction and on perusal of the aforesaid impugned order I also find that the contention/objection raised by the petitioner in its reply to the notice under Section 148A(b) of the Act has not been discussed or dealt with in the impugned order.

Considering the facts and circumstances of the case as appears from record and submissions of the parties and in view of the discussion made above, in my considered opinion, the aforesaid impugned order under Section 148A(d) and notice under Section 148 of the Act are not sustainable in law and set aside and matter is remanded back to the assessing officer concerned to pass a fresh speaking order under Section 148A(d) of the Act in accordance with law and after dealing and discussing with the contention raised by the petitioner its objection to the notice under Section 148A(b) of the Act and after giving opportunity of hearing to the petitioner or its authorised representative, within a period of eight weeks from the date of communication of this order.

With these observations and directions, this writ petition being WPO 1525 of 2023 stands disposed of.

(MD. NIZAMUDDIN, J.)

TR/