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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/1549/2023

SANGHI STEEL UDYOG PRIVATE LIMITED
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 13th September, 2023.

Appearance:
Mr. Brijesh Kumar Singh, Adv.
Mr. Om Prakash Prasad, Adv.
... for the petitioner.

Mr. Tilak Mitra, Adv.
..for the respondent.

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

By this writ petition, petitioner has challenged the impugned notice dated 11th April, 2023, under Section 148 of the Income Tax Act, 1961 relating to assessment year 2019-20 on the ground that the same has been issued by the jurisdictional assessing officer and not by National Faceless Assessment Center as required under Section 151A of the Income Tax Act, 1961.

Mr. Mitra, learned advocate appearing for the respondents submits that first of all the ground taken by the petitioner is hypertechnical since mode of service does not affect the contents and merit of the notice and secondly that the issuance of the aforesaid impugned notice under Section 148 of the Act is justifiable and sustainable in law in view of the office memorandum dated 20th February, 2023 being F No. 370153/7/2023-TPL issued by the CBDT and particularly paragraph 4 of the said office memorandum upon which she relies is quoted as hereunder :

"4. It is also pertinent to note here that under the provisions of the Act both the JAO as well as units under NFAC have concurrent jurisdiction. The Act does not distinguish between JAO or NFAC with respect to jurisdiction over a case. This is further corroborated by the fact that under section 144B of the Act the records in a case are transferred back to the JAO as soon as the assessment proceedings are completed. So, section 144B of the Act lays down the role of NFAC and the units under it for the specific purpose of conduct of assessment proceedings in a specific case in a particular Assessment Year. This cannot be construed to be meaning that the JAO is bereft of the jurisdiction over a particular assessee or with respect to procedures not falling under the ambit of section 144B of the Act. Since, section 144B of the Act does not provide for issuance of notice under section 148 of the Act, there can be no ambiguity in the fact that the JAO still has the jurisdiction to issue notice under section 148 of the Act."

Considering the facts and circumstances of the case and submissions of the parties and in view of the aforesaid circular of the Board, I find no merit in the writ petition being WPO 1549 of 2023 and accordingly the same is dismissed.

(MD. NIZAMUDDIN, J.)

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