OD-17

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO/145/2023
IA NO: GA/1/2023
DINBANDHU CONSTRUCTION LLP
VS
INCOME TAX OFFICER WARD 6/1AND ORS.

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 27TH September, 2023

Appearance :
Ms. Swapna Das, Adv.
Mr. Siddhartha Das, Adv.
....for appellant
Mr. Aryamk Dutt, Adv.
...for Income Tax Deptt.

The Court :- This intra-Court appeal by the writ petitioner is directed against the order dated 22nd August, 2023 in WPO 1450 of 2023 by which the learned Writ Court declined to grant any interim order in favour of the appellant on the ground that the appellant had filed a writ petition challenging the assessment order dated 16th May, 2023 by filing the writ petition well beyond the period of limitation for filing a statutory appeal as against the said assessment order. It is pointed out by the learned advocate for the appellant that in respect of the very same appellant/assessee for the assessment year 2014-15 an identical assessment order was put to challenge in WPO 1451 of 2023 and the learned Single Bench by order dated 22nd August, 2023 had allowed the writ petition and quashed the assessment order for the assessment year 2014-15. It is submitted by the learned Advocate for the appellant that the facts in the present case are identical and the only difference being that the present appeal/writ petition relates to the assessment order 2015-16. In the light of the facts that the learned Single Bench has directed affidavit in opposition to be filed by the respondent department within a timeframe and directed the writ petition to be listed in the month of December 2023, we are of the view that since the appellant had the benefit of an order passed in WPO 1451 of 2023 dated 22nd August, 2023 by which the assessment order for the year 2014-15 was quashed on identical ground, we are of the view that the assessment order impugned in the writ petition dated 16th May, 2023 for the assessment year 2015-16 shall remain stayed till the writ petition is heard and disposed of.

The respondent department is directed to abide by the direction issued by the learned Single Bench and file their affidavit in opposition.

The appeal and the applications stand disposed of.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

Pkd/GH.