OD–12

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/409/2023
IA NO: GA/1/2023

OVERSEAS CORPORATION PVT LTD. AND ANR
VS
UNION OF INDIA AND ORS

BEFORE :

THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 22ND December, 2023

Appearance :
Mr. Kumarjit Banerjee, Adv.
Ms. Sanchari Chakraborty, Adv.
Ms. Akansha Chakraborty, Adv.
... for appellant..

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

The Court : - This intra Court appeal by the appellant/writ petitioner is directed against the order dated 31st August, 2023 passed in WPO/1513/2023. The writ petition was dismissed by the learned single Bench on the ground of availability of alternative remedy. The said finding recorded by the learned single Bench cannot be faulted, more particularly when the appellant did not file their objections to the notice issued under Section 148A(b) of the Income Tax Act, 1961(the Act) and the matter travelled upto the stage of an order being passed under Section 148A(b), dated 20th July, 2023 and ultimately culminated in a re-assessment order dated 23rd May, 2023. Therefore, the appellant has to avail the alternative remedy by filing a statutory appeal against the re-assessment order dated 23rd May, 2023.

Learned Advocate for the appellant submitted that there was one more prayer in the writ petition wherein the appellant had challenged the validity of the CBDT Circular bearing Instruction no.1 of 2022, dated 11th May, 2022 and such prayer was not considered.

On going through the impugned order, we find that the said prayer has not been dealt with nor it is clear as to whether any submissions were made in this regard with regard to the validity of the CBDT Circular. In any event, since we are confirming the order passed by the learned single Bench on the ground of opportunity to the appellant to file a fresh writ petition, if so advised, challenging the CBDT Circular bearing Instruction no.1 of 2022, dated 11th May, 2022.

With the above observation, the appeal is dismissed.

The application for stay GA/1/2023 is also dismissed.

(T.S. SIVAGNANAM, C.J.)

(HIRANMAY BHATTACHARYYA, J.)

SN/S. Das.