OD –2

ORDER SHEET

WPO/3/2024
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

PRASHANT MEHRA
VS
UNION OF INDIA AND ORS

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 22nd January, 2024.

Appearance:
Mr. Pranit Bag, Adv.
Mr. Anuj Mishra Adv.
Mr. R.R. Modi, Adv.
...For the Petitioner

Mr. Aryak Dutt, Adv.
...for the respondents

The Court: Heard learned counsel for the parties.

By this writ petition, petitioner has challenged the impugned order of transfer of the petitioner's income tax file, dated 1st December, 2023, under Section 127 of the Income Tax Act, 1961 on the ground of non-application of mind as well as in violation of principles of natural justice by recording in the impugned order by the Income Tax Authority concerned that no reply was filed to the show cause notice which is contrary to record since it appears from the record annexed to the writ petition that petitioner had already filed a reply to the show cause notice against transfer on 24th August, 2023 and that the same was not considered and even referred in the impugned order.

Mr. Dutt, learned advocate representing the respondent Income Tax Authority could not deny the aforesaid allegation of the petitioner that in fact petitioner had filed reply to the show cause notice and that such reply was taken into consideration while passing the impugned order of transfer.

Considering the facts and circumstances of the case and submission of the parties I am of the view that keeping the case pending and calling for filing of affidavit by the respondent will not serve any purpose in view of the admitted fact which could not be denied by the learned advocate representing the Income Tax Authority and accordingly this writ petition being WPO 3 of 2024 is disposed of by setting aside the impugned order dated 1st December, 2023 and by directing the respondent Authority concerned to pass a fresh order after taking into consideration the reply of the petitioner dated 24th August, 2023 in accordance with law and by passing a reasoned and speaking order and after giving opportunity of hearing to the petitioner or his authorised representative within a period of four weeks from date.

(MD. NIZAMUDDIN, J.)

TR/