OD –2

ORDER SHEET

WPO/13/2024
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

RAJ KUMAR MISHRA
VS
UNION OF INDIA AND ORS

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 25th January, 2024.

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

Mr. Om Narayan Rai, Adv.
...for the respondents

The Court: Heard learned counsel appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 31st March, 2023, under Section 148A(d) of the Income Tax Act, 1961 relating to assessment year 2016-17 on the ground that the same is without jurisdiction as well as in total non-application of mind since the final assessment order under Section 147 of the Act has already been passed which is subject matter of challenge before the appeal which is pending.

Mr. Rai, learned advocate representing the respondent Income Tax Authority on instruction submits that the allegation of the petitioner is substantially correct to the extent that the assessment proceeding has already been finalised by passing order under Section 147 of the Act and as such question of passing order again under Section 148A(d) of the Act does not arise.

Considering the facts and circumstances of the case and submission of the parties, this writ petition being WPO 13 of 2024 is disposed of by setting aside aforesaid impugned order under Section 148A(d) of the Act and all subsequent proceedings in view of pendency of the appeal against the final assessment order.

(MD. NIZAMUDDIN, J.)

TR/