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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/159/2024
IA NO: GA/1/2024
PRASHANT MEHRA
VS
UNION OF INDIA AND ORS.

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S SIVAGNANAM
-A N D-
HON'BLE JUSTICE BIVAS PATTANAYAK
DATE : September 25, 2024.

Appearance :
Mr. Pranit Bag, Bar-At-Law.
Mr. Anuj Mishra, Adv.
Mr. R.R.Modi, Adv.
…for appellant
Mr. Aryak Dutt, Adv.
Mr. Prithu Dudhoria, Adv.
…for respondents

The Court :- This intra-Court appeal by the writ petitioner is directed against the order dated 16th April, 2024 by which the learned Writ Court has directed the respondent department to file their affidavit. The direction has been complied with by the respondent department and affidavit-in-opposition has been filed.

Mr. Pranit Bag, learned Advocate appearing for the appellant would strenuously contend that till the writ petition is heard and disposed of the order passed by the authority under Section 127 of the Income Tax Act, 1961 (the Act) should remained stayed and consequential proceeding shall not be proceeded with by the Income Tax Authorities at Delhi. In this regard, the learned Advocate has referred to the earlier order passed by this Court in a writ petition filed by the appellant in WPO 3 of 2024 which was disposed of by order dated 22nd January, 2024.

It is submitted by the writ petitioner that the order and direction issued by the learned Writ Court has not been complied with and the appellant has not been afforded with reasonable opportunity to put forth their case and there has been violation of principles of natural justice and in spite of the request made by the appellant by order dated 13th February, 2024, sought to give copies of the documents, the same were not furnished and the objections were disposed of summarily and it is an outcome of total non application of mind. Therefore, it is submitted that further proceedings before the Delhi Income Tax Authorities may remain stayed till the writ petition is heard and disposed of.

We have heard Mr. Aryak Dutt, learned standing Counsel for department along with Mr. P. Dudhoria, learned standing Counsel. Admittedly the impugned order is dated 16th April, 2024 and the writ petition was directed to be included in the monthly list of May 2024 for final disposal.

As noted above, the department has already filed their affidavit-in-opposition.

The learned Writ Court while passing the impugned order has recorded that the case file of the appellant has already been transferred to Delhi. Thus, from April 2024 or even from the date of filing the writ petition there was no interim order. The file having been transferred to the jurisdiction of the Delhi Income Tax Authority and proceedings have also been initiated by those authorities, at this juncture, namely in September 2024 the question of granting any interim order would not arise.

The only recourse open for the appellant is to pursue the writ petition and raise all contentions therein. Therefore, we find no ground to interfere with the impugned order and the appeal is dismissed.

Liberty is granted to the appellant to move the learned Court for early listing of the writ petition.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(BIVAS PATTANAYAK, J.)

pkd/GH