OD -4

WPO/710/2024
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

ROSE BUD EDUCATION SOCIETY
VS
UNION OF INDIA AND OTHERS

BEFORE :
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
Date : 14th November, 2024

Appearance :

Mr.Avra Mazumder, Adv.
Ms. Alisha Das, Adv.
Mr. Om Prakash Prasad, Adv.
Mr. Suman Bhowmik, Adv.
Mr. Samrat Das, Adv.
For petitioner

The Court : Learned Counsel appearing for the petitioner, originally known as the Education Society and now operating as Rose Bud Education Trust, submits that it received a notice under Section 148A(b) of the Income Tax Act, 1961 from the income tax department. The notice alleged that there was information indicating the petitioner's income for the Assessment Year 2019-20 had escaped assessment, prompting the initiation of reassessment proceedings. In response, the petitioner submitted multiple replies. Despite this, the respondent authority issued a notice under Section 148 through an order under Section 148A(d), which the petitioner claims was unlawful and contrary to the Income Tax Act. Owing to which the petitioner submitted a reply dated March 14, 2022, which was ignored and an adjournment request went unaddressed.

Learned advocate appearing for the petitioner further submits that the petitioner's jurisdictional Assessing Officer has passed an order under Section 147 of the Income Tax Act, 1961 and that the order was passed mechanically without any application of mind.

No one appears for the respondent-Income-tax Authority.

Perused the order dated 22nd March, 2024. Though there is a provision of appeal under the Income-tax Act, the petitioner did not avail the same, instead filed the writ petition on 23rd July, 2024. The normal rule is that a writ petition under Article 226 of the Constitution ought not to be entertained if alternate statutory remedies are available, except in cases falling within the well-defined exceptions as observed in Commissioner of Income Tax and Others vs. Chhabil Dass Agarwal, reported in (2014) 1 SCC 603. However, in the present case as the petitioner has directly approached this Court without exhausting the alternative remedies, this Court is not ready to enter into the merits of the writ petition and requests the assessee to prefer an appeal under the Income Tax Act, 1961.

The writ petition is disposed of.

No order as to costs.

(RAJARSHI BHARADWAJ, J.)

Sb/