OD – 35

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction

ORIGINAL SIDE

APOT/453/2023
IA NO.GA/1/2023
SHRI AVIJIT SARKAR
-Versus-

INCOME TAX OFFICER, WARD 8(2),
KOLKATA AND ORS.

BEFORE :
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 17th January, 2024

Appearance :
Mr. Sanjay Bhaumik, Adv.
Mr.Saumya Kejriwal, Adv.
Ms. Ananya Rath, Adv.
Mr. Navin Mittal, Adv.
..for the appellant.

Mr. Amit Sharma, Adv.
...for the respondent.

The Court : This intra-Court appeal by the writ petitioner is directed against the order dated 20.11.2023 in WPO No.1695 of 2023. In the said writ petition the appellant/assessee under the guise of challenging a reassessment order passed under Section 147 of the Income Tax Act, 1961 dated 23rd May, 2023 challenges the entire reopening proceedings commencing from the issuance of Section 148A(b). The learned Writ Court had dismissed the writ petition on the ground that there has been suppression of certain material facts. Be that as it may, the reassessment order having been passed and the assessee having not questioned the order passed under Section 148A(d) of the Act at any earlier point of time the assessee has to agitate all grounds in the statutory appeal which has been provided for under the Act and the writ petition is not the appropriate remedy. The appellant/assessee will be at liberty to raise all grounds in the appeal that they may file before the appellate authority. Therefore, we are of the clear view that the writ petition cannot be entertained for the above reason as well as the issue as regards the limitation and whether the assessment was based against a non-existing entity which are all factual matters which has to be agitated and adjudicated by the appellate authority alone.

For the above reasons, we find no grounds to interfere with the order passed by the learned Single Bench.

In the result, the appeal fails and the same is dismissed. Consequently, the connected application stands closed.

(T.S. SIVAGNANAM)
(CHIEF JUSTICE)

(HIRANMAY BHATTACHARYYA, J.)

S.Das/