

ORDER SHEET
WPO/1017/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SPANDAN SALES PRIVATE LIMITED
VS
INCOME TAX OFFICER WARD 5(1) AND ORS.

BEFORE:

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date: 6th June, 2023.

Appearance:
Mr. Rites Goel, Adv.
...For the Petitioner
Mr. Om Narayan Rai, Adv.
Mr. Soumen Bhattacharjee, Adv.
...for the Respondents

The Court : Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 25th July, 2022 under Section 148A(d) of the Income Tax Act, 1961 relating to assessment year 2016-17 by raising the pure question of law relating to the jurisdiction of the assessing officer concerned in passing the aforesaid impugned order by non-compliance of the formalities of taking approval of the specified authority mentioned in Section 151(ii) of the Income Tax Act, 1961.

Admitted position in this case is that impugned order under Section 148A(d) of the Act has been passed after a lapse of three years from the end of the relevant assessment year and in this case specified authority is not the Principal Commissioner of Income Tax from whom approval has been taken before passing the aforesaid impugned order and it appears on a plain reading of Section 151(ii) of the said Act that Principal CIT from whom

approval has been taken is not the specified authority for the purpose of approval under Section 148 and Section 148A of the Income Tax Act, 1961.

Considering the facts and circumstances of this case, I am of the view that the issues involved in this writ petition cannot be adjudicated without calling for affidavits.

Let the respondents file affidavit-in-opposition within four weeks; petitioner to file reply thereto, if any, within two weeks thereafter.

In the meantime, there will be stay of all further proceedings on the basis of the impugned order under Section 148A(d) of the Act till 31st August, 2023 or until further order whichever is earlier.

The matter shall appear for final hearing in the monthly list of August, 2023.

(MD. NIZAMUDDIN, J.)

TR/