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WPA 3814 of 2023

Orbit Projects Private Limited

Vs

Income Tax Officer, Ward 5(1), Kolkata & Ors.

Mr. Avra Mazumder,
Mr. Ramesh Patodia,
Ms. Megha Agarwal,
Mr. Samrat Das

... For the Petitioner.

Mrs. Smita Das De

... For the Respondents.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned notice under Section 148A(b) of the Income Tax Act, 1961 dated 27th May, 2022, relating to assessment year 2015-16 on the ground that the same has been issued in the name of non-existing entity and which has already been amalgamated on 16th September, 2019 with retrospective effect from 1st April, 2018. It appears from record that against the very same non-existing entity, namely Swastik Promoters Private Limited a notice under Section 148 of the Act was quashed by this court by the order dated 2nd March, 2022 in WPO 1142 of 2022 and in spite of quashing of such notice by this court on earlier occasion, again the assessing officer has issued the impugned notice dated 27th May, 2022 against the very same non-existing entity. Such conduct reflect, total non-application of mind by the Assessing Officer,

namely Bitan Roy, Ward No.V(1), Kolkata, and rather it is contumacious also and in total disregard and defiance of earlier of the order of this court. It also appears from past record that in respect of another assessee this court has imposed the personal cost of Rs.10,000/- upon the very same Assessing Officer, Bitan Roy by order dated 8.2.2023 in WPO No.213 of 2023.

Considering the facts and circumstances of the case as appears from record and submission of the parties this writ petition being WPA 3814 of 2023 is disposed of by quashing the aforesaid impugned notice dated 27th May, 2022, under Section 148A(b) of the Act and all subsequent proceedings and allowing this writ petition by imposing personal cost of Rs.20,000/- upon Bitan Roy, Ward No .V(1), Kolkata which is to be realised from his salary and to be paid to the petitioner.

Let a copy this order be communicated to the Principal Chief CIT, West Bengal and Sikkim, by the office of the Ministry of Law and Justice, who will take note of this order about the affairs going on in his department and take necessary steps.

(Md. Nizamuddin, J.)

