13.09.2021
p.b.
Sl. No.7.

W.P.A. 12403 of 2021

Pary Developers Pvt. Ltd.
Vs.
Assistant Commissioner of Income Tax, Circle 5(1), Kolkata & Anr.

(Via Video Conference)

Mr. Rajat Mittal,
Ms. Sadupurna Mukherjee,
Ms. Abhidipto Tarafdar.
……for the petitioner.

Affidavit-of-service filed in court be kept on the record.

In this matter petitioner has challenged the impugned notice dated 19th April, 2021 relating to assessment years 2014-2015 under Section 148 of the Income Tax Act, 1961 on the ground that before issuing notice under Section 148 of the Act, mandatory provisions of Section 148A of the Act which cast statutory obligation on the part of the Assessing Officer to comply the provisions of the same before issuing any notice under Section 148 of the Act has not been complied with by the Assessing Officer.

Petitioner has also challenged the Constitutional validity of the provisions of the Taxation and other Law

(Relaxation and Amendment of Certain Provisions) Act, 2020.

Learned Advocate appearing for the petitioner in support of his contention has relied on my order dated 15th July, 2021 in WPA No.244 of 2021 in the case of Bagaria Properties and Investments Private Limited & Anr. vs. Union of India & Ors. on the similar issue where I have stayed the impugned notice under Section 148 of the Income Tax Act, 1961 for non compliance of the provisions of Section 148A of the Act.

The learned Advocate for the respondents is not able to deny the allegations of the petitioner that Section 148A provisions of the Income Tax Act, 1961 was not complied with in this case before issuing notice under Section 148 of the said Act and was not able to distinguish the aforesaid unreported decisions.

Considering the submissions of the parties, I direct the respondents to file affidavit-in-opposition within six weeks from date. Petitioner to file reply thereto, if any, within two weeks thereafter.

List the matter for final hearing on 26.11.2021.

In the meantime, respondents are restrained from proceeding any further on the basis of the aforesaid impugned notice dated 19th April, 2021 being Annexure P-1 to the writ petition.

At the time of hearing, parties should be ready with short written notes of argument.

(Md. Nizamuddin, J.)