15-02-2022
Item No.21
Subrata

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.810 of 2022
Paritosh Ladhani HUF
-vs-
Union of India & Ors.

Mr. Pramit Bag
Mr. Anuj Kumar Mishra
Mr. Balaram Patra ...for the petitioner

Ms. Sucharita Biswas ...for the respondents

Heard learned advocates appearing for the parties.

In this writ petition, petitioner has challenged the impugned notice dated March 30, 2021 under section 148 of the Income Tax, 1961 (Annexure P3, p.27) relating to assessment year 2013-14 issued by the Income Tax Officer, Ward No.39(1), Midnapore on the grounds that the same is without jurisdiction, since the petitioner's registered address is at New Delhi, and the PAN Card issued by the income tax authority concerned as appears at page 40 of the writ petition shows the address of the petitioner is at New Delhi, and several assessment years from 2013-14 to 2021 as appears at page 43 being Annexure P8 to the writ petition also shows that all those assessments were made in New Delhi/Agra, and till date no any formal notice under section 127 of the 1961 Act has been issued and no formal order under section 127(2) of the Act has been passed and never such order of transfer order was communicated to the petitioner.

Learned advocate appearing or the respondent-income tax authority could not produce any record showing the formal order, if at all, passed by the income tax authority under section 127(2) of the Act, or any notice or communication, if at all, for transferring the case of the petitioner from Delhi/Agra to Midnapore was made.

Considering these facts which appear from record annexed to the writ petition, the impugned notice dated March 30, 2021 under section 148 of the Income Tax Act, 1961 is set aside. In case, the income tax authority wants to issue any fresh notice under section 148 of the said Act relating to the said assessment year, it may do so either at the address of the petitioner at New Delhi/Agra or if the ITO, Midnapore wants to issue any notice under section 148 of the said Act, in that case a formal notice under section 127 of the Act will have to be issued and an opportunity of hearing has to be given to the petitioner and after passing a formal order under section 127 of the Act, it can initiate proceeding under section 148 of the Act accordingly.

The instructions/report filed on behalf of the petitioner, which is contrary to record as appears from the writ petition, is taken on record.

With the above observation and direction, this writ petition being WPA No.810 of 2022 stands disposed of.

[Md. Nizamuddin, J]