28.03.2022.
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Sl. No.12.

W.P.A. 5027 of 2022

Promod Kumar Ghorawat
Vs.
Union of India & Ors.

Ms. Namrata Jha
...for the Petitioner.
Mr. Amit Sharma
...for the Respondents.

Heard learned counsel appearing for the parties.

Petitioner is aggrieved by the issuance of impugned notice under Section 148 of the Income Tax Act, 1961 on the ground that the same are barred by limitation and the respondent Income Tax Authority concerned, before issuing the impugned notice under Section 148 of the Income Tax Act, have not observed the statutory formalities under Section 148A of the Income Tax Act as prescribed by the Finance Act, 2021 which are applicable with effect from 1st April, 2021 before issuance of notice under Section 148 of the Act on or after 1st April, 2021.

Issues arising in the present writ petition is purely legal and in this writ petition the assessee/petitioner has sought relief of quashing of the impugned re-assessment notice issued post 31st March, 2021 by the respondent Income Tax Authority concerned under Section 148 of the Income Tax Act, assessee/petitioner has also sought relief by way of a declaration declaring Explanations A(a)(ii)/A(b) to the Notification No.20 [S.O. 1432 (E) dated 31st March, 2021 and Notification No.38 [S.O. 1703 (E)] dated 27th April, 2021 to the extent that the same extend the applicability of the "provisions of Section 148, Section 149 and Section 151 of the Act, as the case may be, as they stood as on the 31st March, 2021, before the commencement of the Finance Act, 2021" to the period beyond 31st March, 2021 as ultra vires the parent legislation, viz., The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (hereinafter referred to as 'Relaxation Act, 2020').

At the outset, both the counsel appearing for the parties jointly submitted that the issues involved in this writ petition is covered by the decision of the Division Bench of the Allahabad High Court dated 30th September, 2021 in the case of 'Ashok Kumar Agarwal Vs. Union of India through its Revenue Secretary North Block & Ors.' (Writ Tax No.524/2021) decided in favour of assessee/ petitioner on 30.09.2021 and order of Rajasthan High Court dated 25th November, 2021 in the case of Bpip Infra Private Limited Vs. Income Tax Officer, Ward 4 (1), Jaipur (S.B. Civil Writ Petition No.13297/2021) and the order of Delhi High Court 15th December, 2021 in the case of Man Mohan Kohli Vs. Assistant Commissioner of Income Tax & Anr. In (W.P. (C) 6176 of 2021) and judgment and order of this Court dated 17th January, 2022 in the case of Manoj Jain Vs. Union of India & Ors. In WPA No.11950 of 2021 and in the case of Bagaria Properties and Investment Private Limited & Anr. In WPO 244 of 2021.

In view of judgment and order of this Court dated 17th January, 2022 in the case of Manoj Jain Vs. Union of India & Ors. In WPA No.11950 of 2021 and in the case of Bagaria Properties and Investment Private Limited & Anr. in WPO No.244 of 2021, this **writ petition being WPA No.4829 of 2022** is disposed of by allowing the same. Explanations A(a)(ii)/A(b) to the Notification dated 31st March, 2021 and 27th April, 2021 are declared to be ultra vires the Relaxation Act, 2020 and are therefore bad in law and null and void. Impugned notice under Section 148 of the Income Tax Act is quashed with liberty to the Assessing Officers concerned to initiate fresh re-assessment proceedings in accordance with the relevant provisions of the Act as amended by Finance Act, 2021 and after making compliance of the formalities as required by the law.

This writ petition is allowed subject to payment of cost of Rs.5,000/- to the High Court Legal Services Committee since the impugned notice under Section 148 of the Income Tax Act, 1961, has been issued on 29**th June, 2021** as appears from record and this writ petition has been filed on 21st **March, 2022**, that is, almost after eight months from receipt of the impugned notice, without any explanation for such delay in filing this writ petition.

Such cost has to be paid by the petitioner to the High Court Legal Services Committee within seven days from date and payment of receipt is to be produced before this Court.

List this matter as "To be Mentioned" on 11th April, 2022 for compliance.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Md. Nizamuddin, J.)