19.04.2022.
p.b.
Sl. No.27.

W.P.A. 6233 of 2022

Manish Sharma
Vs.
Union of India & Ors.

Mr. Anuj Kumar Mishra.
……..for the petitioner.

Mr. Smarajit Roychowdhury.
……..for the UOI.

Heard learned advocates appearing for the parties.

In this writ petition, petitioner has challenged the impugned notice dated 30th June, 2021 under section 148 of the Income Tax Act relating to the assessment year 2013-2014 which was issued on 30th June, 2021 as appears from impugned notice itself and obviously it falls within the ambit of newly amended provisions of Section 147 proceedings of the Income Tax Act, 1961 and under which there was a mandatory obligation on the part of the Assessing Officer to issue notice under Section 148A of the Income Tax Act before issuing the impugned notice under Section 148 of the Act which has been admittedly not done in this case. In view of this admitted facts as appears from record and in view of the decision of this Court in the case of Bagaria Properties reported in (2022) 134 Taxman.Com 196 (Calcutta), the impugned notice under Section 148 of the Income Tax Act, 1961 dated 30th June, 2021 is not sustainable in law and the same is quashed.

However, quashing of the impugned notice will not prevent the respondent/Assessing Officer to issue any fresh notice in accordance with law.

This writ petition is being entertained subject to payment of costs 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 30th June, 2021 as appears from record and this writ petition has been filed on 6th April, 2022, that is, almost after nine months from receipt of the impugned notice, without any explanation for such delay in filing this writ petition. Such costs has to be paid by the petitioner to the High Court Legal Services Committee within seven days from date, which is to be utilised for the welfare of street children. Payment of receipt is to be produced before this court.

List this matter under the heading “To Be Mentioned” on April 28, 2022 for compliance.

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

(Md. Nizamuddin, J.)