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WPA 6320 of 2022

Vishal Mohta HUF
Vs
Union of India & Ors.

Mr. Pranit Bag,
Mr. Zubeen Pandey
... For the Petitioner.
Mr. Smarajit Roy Chowdhury
... For the UOI.

Heard learned Advocates appearing for the parties.

In this writ petition, petitioner has challenged the impugned notice dated 31st March, 2021, under Section 148 of the Income Tax Act, 1961 relating to assessment year 2013-2014 and all subsequent proceedings on the basis of the impugned notice on the ground that the same was issued on 1st of April, 2021 on the basis of record and it appears from record that in fact it was issued on 1st of April, 2021, on the ground hat the case clearly falls within the ambit of newly amended provision relating to 147 of the Income Tax Act proceedings and it was the mandatory obligation on the part of the Assessing Officer to issue notice under Section 148A of the Act before issuing the impugned notice which the Assessing Officer has not done in this case and even has passed the final assessment order.

Considering the submission of the parties I am of the view that in view of the admitted fact that this case clearly falls under the newly amended provisions relating to 147 proceedings of the Act and the Assessing Officer concerned has issued the impugned notice in violation of the aforesaid newly amended provisions and further this case is covered by an order of this Court in the case of Bagaria Properties reported in (2022) 134 Taxman.Com 196(Calcutta) and accordingly, the impugned notice dated 31st March, 2021 and all further proceedings including final assessment order on the basis of impugned notice are not sustainable in law and the same are quashed.

However, quashing of the impugned notice and proceedings therein will not debar the Assessing Officer concerned to issue any fresh notice in future in accordance with law.

This writ petition is being entertained 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 **31st March, 2021** as appears from record and this writ petition has been filed on 7th 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 cost has to be paid by the petitioner to the High Court Legal Services Committee within seven days from date, which is to be utilized for the welfare of street children. Payment of receipt is to be produced before this Court.

List this matter as “To be Mentioned” on 25th 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.)