WPA 10892 OF 2022

23.06.2022
Sl no. 11
Ct no. 2
P.M.

Triveni Devi Bhalotia College.
- Vs -
Union of India & Ors.

Mr. Pranit Bag,
Mr. Anuj Kr. Mishra
... for the petitioner

Ms. Smita Das De

... for the respondent

Heard learned advocates appearing for the parties.

By this writ petition the petitioner has challenged the impugned order dated 4th April, 2022, under Section 148A(d) of the Income Tax Act, 1961 as subsequent notice under Section 148 of the Act as well as the impugned notice under Section 148A(b) of the Act on the basis of which the impugned order dated 4th April, 2022 has been passed.

It appears from record that assessment order involved in this case is financial years 2014-2015 that is the assessment year 2015-2016 and it is the case of the petitioner that the issuance of notice under Section 148A(b) of the Act for non-filing of the return in the relevant assessment year is bad in law in view of law applicable at the relevant point of time that is Section 10(23C) (iiiab) under which petitioner was not required to file any return and it is the case of the petitioner that the issuance of notice under Section 148A(b) and subsequent order under Section 148A(d) of the act is totally on a wrong interpretation of law and the same is non-speaking order since the objections/response of the petitioner dated 24th March, 2022 appears at page 57 was not properly considered and dealt with.

It is the case of the petitioner that the petitioner is an institution substantially financed by the Government of West Bengal and does not run on profit basis and during the relevant assessment order in view of the aforesaid provision of law which was amended prospectively, petitioner was not entitled to file the return as such the very basis of the issuance of notice under Section 148A(b) of the Act is in total ignorance and disregard of law.

Considering the submission of the parties this writ petition being WPA 10892 of 2022 is disposed of by setting aside the impugned order dated 4th April, 2022 under Section 148A(d) of the Act and subsequent notice under Section 148 of the Act and the case is remanded back to the respondents to pass a fresh order in accordance with law and by passing a reasoned and speaking order on the objection/response of the petitioner dated 24th March, 2022 and while passing the fresh order on such objection respondent will decide the legality of the issuance of the notice under Section 148A(b)of the Act itself. A fresh order is to be passed by the respondents by a reasoned and speaking order and after giving an opportunity of hearing to the petitioner or its authorized representatives.

With this observation and direction this writ petition stands disposed of.

(Md. Nizamuddin, J.)