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WPA 11273 of 2022

Anvay Warehousing LLP
Vs
Income Tax Officer, Ward 43(1), Kolkata & Ors.

Mr. Ananda Sen,
Mr. Souvik Ghosh
... For the Petitioner.
Ms. Smita Das De
... For the Respondents.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 30th April, 2022, under Section 148A(d) of the Income Tax Act, 1961 relating to Assessment Year 2015-2016 and subsequent notice under Section 148 of the Act on the basis of a notice dated 28th March, 2022 under Section 148A(b) of the Act, on the ground that the impugned notice under Section 148A(b) of the Act itself is in contrary to law in the sense that under Section 148A(b) of the Act, the Assessing Officer shall have to give minimum seven day's time to respond to the notice under Section 148A(b) of the Act while it appears from record being Annexure P-2 at page 28 of the writ petition that the impugned notice was issued on 28th March, 2022 and the petitioner was asked to respond the same on the very next date i.e by 29th of March, 2022. Petitioner has raised his grievance of non-compliance of the formalities of giving seven day's notice under Section

148A by its representation dated 28th March, 2022 being Annexure P-3 to the writ petition, which was ignored by the Assessing Officer and he has passed the impugned order dated 30th April, 2022 under Section 148A(d) of the Act and issued subsequent notice under Section 148 of the Act.

Ms. Das De, learned Advocate appearing for the respondents, Income Tax Authority is not in a position to contradict the allegations of violation of relevant provisions of law as referred hereinabove by the petitioner in issuance of notice under Section 148A(b) of the Act and the passing of subsequent order under Section 148A(d) of the Act.

Considering the facts and circumstances of the case as appears from record and submission of the parties, I am of the view that the impugned order dated 30th April, 2022, under Section 148A(d) and subsequent notice under Section 148 of the Act are not sustainable in law and, accordingly the same are set aside and the matter is remanded back to the Assessing Officer concerned to pass a fresh order in accordance with law by passing a reasoned and speaking order after giving an opportunity of hearing to the petitioner or its authorised representative and after considering the response to the impugned notice under Section 148 of the Act, which has to be filed by the petitioner within seven days from date. In case of default in filing the response within the time stipulated herein, this order will lose its force.

With these observations and directions, this writ petition being WPA 11273 of 2022 is disposed of.

(Md. Nizamuddin, J.)