26.08.2022.
p.b.
Sl. No.25.

W.P.A. 19110 of 2022

Maadhawa Realpro Pvt. Ltd.
Vs.
Income Tax Officer, Ward 9(1),
Kolkata & Anr.

Ms. Manju Agarwal,
Mr. Bajrang Manot,
Mr. Surabhi Baid.
........for the petitioner.
Mr. Aryak Dutt.
.........for the UOI.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 30th July, 2022 under Section 148A(d) of the Income Tax Act, 1961, on the ground that the same has been passed in total non-application of mind and also on the ground of violation of principle of natural justice by not at all considering the petitioner's objection dated 24th June, 2022 against the impugned notice under Section 148A(b) of the Act dated 1st June, 2022. Petitioner has further challenged the aforesaid impugned order also on the ground of total non-application of mind by the respondent assessing officer concerned by recording in its order that the petitioner has neither filed any reply nor sought any adjournment during the time stipulated in the notice under Section 148A(b) of the Act. It appears from record that in fact, petitioner has filed its response/objection on 24th June, 2022 against the notice dated 1st June, 2022 under Section 148A(b) of the Act and which was duly received and acknowledged by the office of the assessing officer.

Mr. Roychowdhury, learned advocate appearing for the respondent income tax authority could not deny the allegation made by the petitioner which is substantiated by record that the objection to the notice under Section 148A(b) of the Act which in spite of receiving was not considered.

Considering the facts and circumstances of this case, I am of the considered view that the impugned order dated 30th July, 2022 under Section 148A(d) is not sustainable in law on the ground of violation of principle of natural justice and also being passed in total non-application of mind as appears to me on perusal of the records. Since the same is non-speaking order and has been passed in violation of principle of natural justice by not considering the response to the petitioner under Section 148A(b) of the Act and further the assessing officer in spite of receiving such objection in its order has recorded that no such response was filed by the petitioner, the matter is remanded back to the assessing officer to pass a fresh speaking order under Section 148A(d) of the Act in accordance with law and after giving an opportunity of hearing to the petitioner or its representatives within four weeks from the date of communication of this order.

With this observation and direction, this writ petition being WPA No.19110 of 2022 stands disposed of.

(Md. Nizamuddin, J.)