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WPA 19281 of 2022

Ross Electrical Works Pvt. Ltd.
Vs
Income Tax Officer, Ward No.10(1), Kolkata & Ors.

Mr. Abhrotosh Mazumder,
Mr. Avra Majumder,
Mr. D. Ray,
Mr. B. Gupta
... 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 22nd July, 2022, under Section 148A(d) of the Income Tax Act, 1961 relating to assessment year 2016-2017 on the basis of impugned notice under Section 148A(b) of the Act dated 2nd June, 2022 against which an elaborate objection/response was filed by the petitioner being Annexure P-11 to the writ petition which was served upon the department on 20th June, 2022. On perusal of the aforesaid objections/response, I find that the petitioner has raised a very pertinent legal issue of jurisdiction of the Assessing Officer concerned in initiating the impugned proceedings by applying the amended provisions of Section 149(1)(b) of the Income Tax Act, 1961 which came into effect prospectively from 1st of April, 2022 after the order of the Hon'ble Supreme Court. I find from the impugned order under

Section 148A(d) of the Act that it has not been properly dealt with or discussed by taking into consideration the aforesaid amended provisions of Section 149(1)(b) of the Act which came into effect prospectively from 1st of April, 2022 which prima facie appears to have applied in the case of the petitioner retrospectively.

Accordingly, the aforesaid impugned order dated 22nd July, 2022 under Section 148A(d) of the Act and subsequent notice under Section 148A(b) 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 taking into consideration the observation made in this order as well as by taking into consideration the aforesaid newly amended provision which came into effect prospectively from 1st of April, 2022.

With this observation and direction, this writ petition being WPA 19281 of 2022 is disposed of.

(Md. Nizamuddin, J.)