

**07.09.2022**

Sl no. 19

Ct no. 2

P.M.

**WPA 19933 OF 2022**

**Kamlesh Kumar Prahaladka (HUF)**

**- Vs -**

**Union of India & Ors.**

Mr. Sutirtha Das

... for the petitioner

Mr. Samarjit Roy Chowdhury

.... for the respondents

Heard learned Counsel appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 28<sup>th</sup> July, 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 dated 31<sup>st</sup> July, 2022. On perusal of the aforesaid impugned order dated 28<sup>th</sup> July, 2022, I am of the considered view that the aforesaid impugned order is neither in violation of principle of natural justice nor the same is without jurisdiction, nor the same is contrary to any provision of law, nor any constitutional validity of any provision of law is involved in this case.

It appears to me that petitioner is not satisfied with the reasoning given for not accepting the petitioner's response to the notice under Section 148A(b) of the Act and this Court in exercise of

Constitutional writ jurisdiction under Article 226 of the Constitution cannot act as an appellate authority over such order and substitute its finding with the findings of authorities below.

I am also of the considered view that by mere passing of the impugned order under Section 148A(d) of the Act, it does not automatically become an assessment order or a demand and the petitioner will still have ample scope and opportunity to make out a case before the Assessing Officer for dropping the proceedings in course of proceedings.

Accordingly, this writ petition being WPA 19933 of 2022 is disposed of without passing any order or granting any relief in this writ petition, except granting liberty to the petitioner to take all points raised in this writ petition before the Assessing Officer concerned in course of proceeding.

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

**(Md. Nizamuddin, J.)**