OD – 86

ORDER SHEET
WPO/883/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

RAM BALLABH KEDIA
VS
UNION OF INDIA & ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 27th April, 2022.

Appearance:
Mr. Rites Goel, Adv.
Mr.Saroj Tulsiyan, Adv.
For petitioners

The Court : Heard learned advocate appearing for the petitioner.

None appears for the respondents.

Petitioner in this writ petition is aggrieved by the issuance of impugned notice under section 148 of the Income Tax Act, 1961 on the grounds that the same is bared by limitation and that the respondent-income tax authority concerned, before issuing the impugned notices under section 148 of the 1961 Act, has not observed the statutory formalities under section 148A of the 1961 Act as prescribed by the Finance Act, 2021 which are applicable with effect from 1st April, 2021 before issuance of notices under section 148 of the 1961 Act on or after 1st April, 2021.

Learned advocate for the respondent was asked as to whether final assessment order has already been passed or not in this case to which he submits that final assessment order has already been passed. He further submits on the basis of record that the impugned notice under section 148 of the 1961 Act, though it bears date and signature of the authority showing that it was signed on March 31, 2021, but it was actually uploaded for communication after 31st

March, 2022 which has to be treated as date of issuance of the impugned notice.

Considering these facts, I am of the considered view that this case clearly falls under the amended Act relating to proceedings under section 147 of the Act under which issuance of notice under section 148A of the Act is mandatory before issuing any notice under section 148 of the amended Act which has not been complied with in this case.

Considering the above facts and circumstances of the case and in view of the order of this Court in the case of **Bagaria Properties and Investment Private Limited & Anr. v. Union of India & Ors. reported in (2022) 134 taxman.com 196 (Calcutta)** and also in the case of **Monoj Jain v. Union of India reported in (2022) 134 taxman.com 173 (Calcutta)**, the impugned notice under section 148 of the Act and all subsequent proceedings are not sustainable in law and the same are quashed.

However, quashing of the impugned notice and proceeding will not debar the respondent-authority concerned to issue any fresh notice in future in accordance with law.

With the above observations, WPO No. 883 of 2022 stands disposed of.

(MD. NIZAMUDDIN, J.)

sb.