

ORDER SHEET
WPO/1730/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SK. WASIM RAJA
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 30th March, 2022.

Appearance:
Mr. Rites Goel, Adv.
...For the Petitioner

Mr. Prithu Dudhoria, Adv.
...For the U.O.I.

The Court : Heard learned advocates appearing for the parties.

In this writ petition, petitioner has challenged the impugned notice under Section 148 of the Income Tax Act, 1961, dated 31st March, 2021, relating to assessment year 2013-14 which was received through e-mail on 16th April, 2021 and all subsequent proceeding pursuant to the impugned notice under Section 148 of the Act on the ground that it is null and void for the reason that the same has been issued against the dead person. Noticee has already expired on 18th September, 2018 and his death certificate issued by the Government Authority concerned has been annexed at page 44 to the writ petition. The petitioner further submits that in spite of communication of this fact of death of noticee to the respondent concerned he is still proceeding. Petitioner has communicated this fact through e-mail

dated 30th July, 2021 as appears from record at page 9 of the supplementary affidavit.

Mr. Dudhoria, learned advocate appearing for the respondents is not in a position to contradict the allegation of the petitioner that the impugned proceeding has been initiated against a dead person which is not sustainable in law.

Considering the submissions of the parties and the facts and circumstances as appear from record, this writ petition being WPO 1730 of 2022 is disposed of by quashing the impugned notice dated 31st March, 2021 being annexure P-2 to the writ petition and all subsequent proceedings on the basis of the aforesaid impugned notice under Section 148 of the Income Tax Act, 1961. However, quashing of this impugned notice will not prevent the respondent authority concerned to initiate any fresh proceeding in future in accordance with law.

(MD. NIZAMUDDIN, J.)

