OD – 64

ORDER SHEET
WPO/2095/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

LAKSHMAN PRASAD AGARWAL
VS
UNION OF INDIA AND ORS

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 10th May, 2022.

Appearance:
Mr. Pranit Bag, Adv.
Mr. Anujit Mookherji, Adv.
...For the Petitioner

Mr. Prithu Dudhoria, Adv.
...For the respondent

The Court : Heard learned advocates appearing for the parties.

In this matter petitioner has challenged the impugned assessment order dated 23rd March, 2022 under Section 147/143(iii) of the Income Tax Act, 1961 on the basis of notice dated 31st March, 2021 under Section 148 of the Act relating to assessment year 2015-16 which was quashed by this Court by order dated 28th January, 2022 with liberty to initiate fresh reassessment proceeding in accordance with amended new provision relating to reassessment proceeding under which the assessing officer will have to first issue notice under Section 148A of the Income Tax Act, 1961 but in this case no fresh notice under Section 148A of the Income Tax Act was issued to the petitioner and on the basis of the earlier notice under Section 148 of the Act which was quashed by this Court the assessing officer has passed the impugned assessment order which is not sustainable.

Considering the judgment of the **Hon'ble Supreme Court** dated **May 4**, **2022** in the case of **Union of India & Ors. V. Ashish Agarwal** in **Civil Appeal No. 3005 of 2022,** this writ petition is disposed of by setting aside the impugned assessment order dated 23rd March, 2022 by proceeding in the matter in accordance with the guidelines and law laid down by the Hon'ble Supreme Court in the aforesaid judgment. However, assessing officer need not to issue any fresh notice under Section 148A of the Act in view of the aforesaid judgment of the Hon'ble Supreme Court and the impugned notice under Section 148 of the Act will be treated as notice under Section 148A of the Act and the assessing officer concerned shall now proceed with the aforesaid notice from the stage as if 148A notice has been issued and all further proceedings will be in accordance with the guidelines and law laid down by the Hon'ble Supreme Court.

Petitioner is granted liberty to file objection to the aforesaid notice dated 31st March, 2021 under Section 148 of the Act by treating it as it is a notice under Section 148A(b) of the Act, within seven days from date and if the petitioner files such objection within the time stipulated herein, the assessing officer shall proceed with the reassessment proceeding in accordance with law and observation made in this order.

(MD. NIZAMUDDIN, J.)

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