OD – 5

ORDER SHEET
WPO/2227/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SANTOSH KUMAR GOENKA
VS
THE INCOME TAX OFFICER, WARD 44(2), KOLKATA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 14th June, 2022.

Appearance:
Mr. Anil Kumar Dugar, Adv.
Mr. Rajarshi Chatterjee, Adv.
Mr. Govind Tethalia, Adv.
Mr. Gobinda Dey, Adv.
...For the Petitioner
Mr. Aryak Dutt, Adv.
...For the Respondents

The Court : Heard learned advocates appearing for the parties.

In this writ petition, petitioner has challenged the impugned order dated 30th March, 2022, under Section 148A(d) of the Income Tax Act, 1961, relating to assessment year 2018-19 which was passed pursuant to notice under Section 148A(b) of the Act dated 25th March, 2022, on the ground that the aforesaid impugned order has been passed in violation of the provisions under Section 148A(b) of the Act by not granting clear seven days time to give response to the aforesaid notice dated 25th March, 2022 and on perusal of the aforesaid notice I find that petitioner has been asked to give response to the aforesaid notice dated 25th March, 2022 by 28th March, 2022 which is in clear violation of the provisions under Section 148A(b) of the Act. According to petitioner minimum seven days time has to be given for filing response to the same which has not been done in this case.

Mr. Dutt, learned advocate appearing for the respondent is not in a position to contradict the aforesaid factual and legal position which appears from record.

Considering the submissions of the parties this writ petition being WPO 2227 of 2022 is disposed of by setting aside the impugned order dated 30th March, 2022 under Section 148A(d) and subsequent notice under Section 148 of the Act and the matter is remanded back to the assessing officer concerned for passing a fresh order after considering the response to the notice under Section 148A(b) of the Act to be filed by the petitioner within seven days from date, in accordance with law and by passing a reasoned and speaking order and after providing opportunity of hearing to the petitioner or his authorised representative. In case petitioner fails to give reply within the time stipulated herein, the impugned order dated 30th March, 2022 will stand revived.

With these observations and directions, this writ petition stands disposed of.

(MD. NIZAMUDDIN, J.)

TR/