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ORDER SHEET
WPO/2233/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

PREMLATA AGARWAL
VS
UNION OF INDIA AND ORS

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 16th June, 2022.

Appearance:
Mr. Arif Ali, Adv.
...For the Petitioner

Mr. Smarajit Roy Chowdhury, Adv.
...For the U.O.I.

The Court : Heard learned advocates appearing for the parties.

In this writ petition, petitioner has challenged the impugned order dated 28th March, 2022, under Section 148A(d) of the Income Tax Act, 1961, relating to assessment year 2018-19 and subsequent notice under Section 148 of the Act dated 29th March, 2022 pursuant to the notice dated 18th March, 2022 under Section 148A(b) of the Act, on the ground that the aforesaid impugned notice and subsequent order is not sustainable in law for the reason that the impugned proceeding has been initiated by issuance of notice under Section 148A(b) of the Act on 18th March, 2022 while the noticee has already expired on 3rd January, 2021 and in support of such contention petitioner has annexed the death certificate of the noticee which appears at page 13 of the writ petition as well as has made a specific pleading in the writ petition. Whether death of the noticee was intimated to the department before initiation or issuing of the impugned notice is sustainable against a dead person, facts remain that the impugned proceeding under Section 148A(b) and subsequent orders and notices pursuant to the same has been initiated and issued against the dead person, are not sustainable and the same are accordingly quashed.

However, quashing of the impugned notice and proceeding will not prevent the assessing officer concerned from initiating any fresh proceeding in future in accordance with law.

With these observations and directions, this writ petition being WPO 2233 of 2022 is disposed of.

(MD. NIZAMUDDIN, J.)

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