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ORDER SHEET
WPO/2413/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

VENEET AGARWAL
VS
UNION OF INDIA AND ORS.

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

Appearance:
Mr. Pranit Bag, Adv.
Mr. Brijesh Kumar Singh, Adv.
...For the Petitioner
Mr. Tilok Mitra, Adv.
...for Union of India

The Court : Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned notice under Section 148 dated 29th June, 2021 of the Income Tax Act, 1961 (Old Act) relating to assessment year 2013-14 and subsequent notice under Section 148A(d) of the Act dated 19th May, 2022 and all subsequent proceedings on the ground that impugned notice and the whole proceeding is bad and not sustainable in law for the reason that the same have been issued and the impugned proceeding have been initiated against a dead person. Petitioner submits that the noticee has already expired on 26th June, 2016 and has annexed the death certificate issued by the Kolkata Municipal Corporation as appears at page 18 of the writ petition and submits that even if the impugned notice under Section 148 dated 29th June, 2021 was issued without being aware of the death of the noticee but after the intimation given by the petitioner to the assessing officer concerned by its letter dated 8th July, 2021 being annexure P-4 to the writ petition he should not have proceeded any further and further proceeding in the matter and passing the impugned order under Section 148A(d) and issuance of notice under Section 148 of the Act is on the face of it bad in law.

Mr. Mitra, learned counsel appearing for the respondent Income Tax Authority could not deny the allegation made by the petitioner substantiated by record that the impugned notice and proceeding has been initiated against the dead person.

Considering the facts and circumstances of this case as appears from the record and submissions of the parties, this writ petition being WPO 2413 of 2022 is disposed of by setting aside the impugned notice dated 29th June, 2022 under Section 148 of the Income Tax Act, 1961 and all subsequent proceedings on the basis of the aforesaid impugned notice are quashed. However, quashing of the impugned notice and proceeding will not be a bar for the assessing officer concerned to initiate any fresh proceeding in future in accordance with law.

(MD. NIZAMUDDIN, J.)

TR/