

ORDER SHEET
WPO/2601/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SHEKHAR GUPTA
VS
UNION OF INDIA & ORS.

BEFORE:

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date : 20TH SEPTEMBER, 2022.

APPEARANCE:

Mr. Rishabh Karnani, Adv.

Mr. Bhaskar Sengupta, Adv.

..for the petitioner

Mr. Tilok Mitra, Adv.

..for the respondent Income Tax

The Court: Heard learned counsel appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 28th July, 2022 under Section 148A(d) of the Income Tax Act, 1961, relating to assessment year 2016-17 on the ground that the same being without jurisdiction and contrary to the provision of Section 149(1)(a) and (b) of the Income Tax Act, 1961 by contending that admittedly the impugned notice has been issued on 5th May, 2021 after the expiry of three years from the end of relevant assessment year and it is also an admitted position which appears from the conclusion of the assessing officer himself in the impugned order that the alleged escapement of income is Rs. 26,95,222/- which is below Rs. 50 lakh.

Considering the submission of the parties and admitted factual and legal position which appears on perusal of the impugned order dated 28th July, 2022, I am of the considered view that the aforesaid impugned order is bad and not sustainable in law and is liable to be quashed for the reason that the impugned notice under Section 148A(b) under the newly amended Act was issued after expiry of three years from the end of relevant assessment year and the alleged escapement of income is below Rs. 50 lakh.

In view of the discussion made above, this writ petition being WPO 2601 of 2022 is disposed of by quashing the aforesaid impugned order dated 28th July, 2022 under Section 148A(d) of the Act.

(MD. NIZAMUDDIN, J.)