OD –3

ORDER SHEET

WPO/3245/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

HARI SHANKAR MIMANI
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 20th December, 2022.

Mr. Pradeep Kumar Jewrajka, Adv.
Ms. Pooja Jewrajka
Ms. Anjali Tulsian, Adv.
...For the Petitioner

Mr. Vipul Kundalia, Adv.
Mr. Amit Sharma, Adv.
...For the Revenue

The Court: Heard learned advocates appearing for the parties.

By this matter petitioner has challenged the impugned notice dated 30th March, 2021 under Section 148 of the Income Tax Act for the assessment year 2014-15 on the ground that the same has been issued against the dead person and the noticee has expired on 9th March, 2018 and the information of death was already communicated to the Assessing Officer, request of legal representatives has been approved on 22nd October, 2018 as appearing at page 24 of the writ petition.

Petitioner submits that information of death was brought to the notice to the Assessing Officer and inspite of this fact of death of the noticee, respondent Assessing Officer is proceeding with the Section 148/147 of the Act.

Mr. Kundalia, learned Advocate appearing for the respondents/Income Tax Authority is not in a position to contradict this fact. It appears from record that the impugned notice has been issued against the dead person.

Considering the submissions of the parties, this writ petition being WPO 3245 of 2022 is disposed of by quashing the impugned notice dated 30^{th} March, 2021 and all further proceedings under Section 147, 271(c) and 271(b) and notices of demand under Section 156 of the Act on the basis of the aforesaid impugned notice under Section 148 of the Act also stand quashed. However, quashing of the impugned notice will not prevent the Assessing Officer concerned to initiate any fresh proceeding in accordance with law against the legal representatives.

(MD. NIZAMUDDIN, J.)

TR/