WPA 2011 OF 2023

31.01.2023
Sl no. 21
Ct no. 2
P.M.

Manish Shivdayal Karnani.
- Vs -
The Assistant Commissioner of Income Tax, Circle 61, Kolkata & Ors.

Mr. Kushagra Shah
Mr. Anurag Roy
... for the petitioner

Mr. Tilak Mitra
... for the respondent.

Heard learned advocates appearing for the parties.

By this writ petition petitioner has challenged the impugned order dated 28th July, 2022 passed under Section 148A(d) of the Income Tax Act, 1961 along with subsequent notice issued under Section 148 of the Act relating to assessment year 2013-2014.

I have perused the contents of the so-called impugned order under Section 148A(d) of the Act and I am constrained to make observation that the assessing officer named Sumit Dasgupta, Circle 61, Kolkata who has passed the order is highly incompetent officer and is not fit for the said post. The whole order I find is one line noting which is :

"Sir/Madam/M/s,

Subject : Proceedings u/s 148A(d) in consequence to Hon'ble SC order dated 04.05.2022-Order

AS PER SEPARATE SHEET."

It is the case of the petitioner though it has been recorded as order but in fact no order at all has been recorded and only subject matter has been quoted in the so-called impugned order under Section 148A(d) of the Act and no separate sheet as recorded in the so-called impugned order has ever been served upon the petitioner or uploaded in the official website of the department. The impugned order is in total non-application of mind and it shows the incompetency of the Assessing Officer concerned.

In view of the discussion made above, the impugned order dated 28th July, 2022 being annexure P/4 to the writ petition and subsequent notice under Section 148 of the Act are set aside and the matter is remanded back to the Assessing officer concerned to pass a fresh order in accordance with law after giving an opportunity of hearing to the petitioner to file objection to the notice under Section 148A(b) of the Act which is to be filed by the petitioner within two weeks from date and the Assessing Officer concerned shall pass fresh order under Section 148A(d) of the Act after giving an opportunity of hearing and taking into consideration such objection to be filed by the petitioner. The Assessing Officer shall pass final order within eight weeks from the date of receipt of such objection to be filed by the petitioner and if no such objection is filed, the Assessing Officer concerned shall pass the exparte order.

Let a copy of this order be forwarded by the Office of the Ministry of Law and Justice, Branch Secretariat to the office of the CIT concerned.

With this observation and direction this writ petition being WPA 2011 of 2023 is disposed of.

(Md. Nizamuddin, J.)