15.06.2023.
p.b.
Sl. No.29.

WPA 11699 of 2023

Rohit Patni
Vs.
Union of India & Ors.

Mr. Saurabh Bagaria,
Mr. Snehashis Sen,
Mr. Abhishek Banerjee.
……..for the petitioner.
Mr. Tilak Mitra,
Mr. Amit Sharma.
………for the respondents.

Heard learned advocates appearing for the parties.

Supplementary affidavit filed by the petitioner be kept with the record.

By this writ petition, petitioner has challenged the impugned order under Section 148A(d) of the Income Tax Act, 1961, dated 28th July, 2022, relating to assessment year 1915-2016 by filing this writ petition on 11th May, 2023 i.e. almost after ten months of passing the aforesaid impugned order, on the ground that the aforesaid order is bad in law and without jurisdiction. Further development has been taken place during pendency of the writ petition that final assessment order under Section 147 of the Act has already been passed on 30th May, 2023 which is an appellable order which petitioner intends to challenge in this writ petition by way of filing supplementary affidavit. I have perused both the orders under Section 148A(d) of the

Income Tax Act, 1961 as well as final assessment order under Section 147 of the Act and find that there is serious allegation of financial scam against petitioner Rohit Patni that he has taken bogus accommodation entry in the scrip and it was also found in course of investigation as appears from record that the petitioner has shown LTCG of Rs.13,75,53,943/-. It was found in course of investigation that the assessee petitioner has provided an accommodation entry in the guise of LTCG by sale proceeds of scrip AMMLTD & EML and claimed the aforesaid amount as sale proceeds while the sale proceeds of shares scrip AMMLTD/EML was established as unexplained credit found in the books of the petitioner without paying any tax. Details of the reason recorded by the assessing officer in the impugned assessment order under Section 147 and the modus operandi adopted by the petitioner in involvement of bogus accommodation entries of Rs.13,99,66,990/- has been described in detail in paragraphs 10 to 21 of the aforesaid impugned assessment order based on detailed investigation and evidence collected against the petitioner. Furthermore, the aforesaid impugned order under Section 148A(d) of the Act was passed after issuance of notice under Section 148A(b) of the Act and by providing opportunity to the petitioner to file objection to the same and the personal hearing and after passing of the impugned order under Section

148A(d), notice under Section 148 of the Act was issued against which petitioner had filed return under Section 139(1) of the Act in compliance to the said notice under Section 148 of the Act on 27th February, 2023 and subsequently, notice under Section 143(2) dated 22nd March, 2023, notice under Section 142(1) dated 12th January, 2023, 12th April, 2023, 1st May, 2023, 17th May, 2023 along with detailed questionare were issued with due service upon the petitioner and in response to the same, petitioner prayed for adjournments repeatedly and adjournments were granted from time to time and petitioner filed its reply on 2nd May, 2023 thereafter a very detailed speaking and reasoned order has been passed with facts, data and evidence for reaching to the final conclusion in its order under Section 147 of the Act.

In view of the discussions made above, I am not inclined to entertain this writ petition being WPA 11699 of 2023 and accordingly the same is dismissed.

However, dismissal of this writ petition and findings and observation in this order will not have any bearing in the statutory appeal under Section 147 of the Act if petitioner files.

(Md. Nizamuddin, J.)