23.08.2023
PB
Sl. No.7.

WPA 19176 of 2023

Dalmia Tea Plantation &
Industries Limited
Vs
Union of India & Ors.

Mr. Ranjeet Kr. Murarka,
Mr. Vivek Murarka,
Mr. Dibanath Dey.
... For the Petitioner.
Mr. Aryak Dutt.
.....for the respondent no.2.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order under Section 148A(d) of the Income Tax Act, 1961, and subsequent notice under Section 148 of the Act dated 18th April, 2023 relating to the assessment year 2019-20, inter alia, on the ground that the impugned notice under Section 148A of the Act has been issued by the jurisdictional Assessing Officer and not by the National Faceless Assessment Centre and further on the ground that the impugned notice under Section 148 of the Act is contrary to the newly amended provision under Section 148 of the Act w.e.f. 1st April, 2023, by which, for filing return in response to the notice under Section 148 of the Act, 90 day's time is required to be granted to an assessee while in this case time to file return has been granted by 30 days as appears from the impugned notice being Annexure P-7 at page 102 to the writ petition.

Considering the facts and circumstances of the case, I am of the view that so far as issuance of notice by the jurisdictional officer instead of the faceless manner is concerned, it does not affect the substance and materials and contents of a notice and it is a hyper-technical ground as I have already taken this view in several earlier orders. But, so far as legality of the notice under Section 148, on the ground of granting only 30 days instead of 90 days under the newly amended Act, is concerned I am of the considered view that this ground of the petitioner is sustainable in law and accordingly, the aforesaid impugned notice under Section 148 of the Act is quashed with liberty to issue fresh notice under Section 148 of the Act in accordance with law. All other points raised by the petitioner with regard to the legality of the impugned order under Section 148A(d) of the Act is kept open to the petitioner for taking the same in course of any subsequent proceeding under Section 148A(d) of the Act.

With this observation and direction, this writ petition being WPA 19176 of 2023 is disposed of.

**( Md. Nizamuddin, J.)**