24.08.2023
PB
Sl. No.11.

WPA 19563 of 2023

Jaimatadi Vinimay Pvt. Ltd.
Vs
Income Tax Officer, Ward 2(1),
Kolkata & Ors.

Mr. Avra Mazumder,
Mr. Samrat Das,
Mr. Suman Bhowmik,
Mr. Kausheyo Roy.
... For the Petitioner.
Mr. Smarajit Roychowdhury.
........for the income tax authority.

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, dated 19th April, 2023, relating to the assessment year 2019-20 and subsequent notice under Section 148 of the Act on three fold grounds:- (i) that the noticee company's name has been struck off; (ii) that the impugned notice under Section 148 of the Act has been issued by the jurisdictional Assessing Officer and not by the National Faceless Assessment Centre (NFAC) and (iii) that as per the amended provision under Section 148 of the Act w.e.f. 1st April, 023, time to file return in response to the notice under Section 148A(d) is 90 days, but in the instant case, only 30 days has been granted. So far as the objection of the petitioner, on the ground of striking off of the name of the noticee is concerned, it appears from record that neither these facts were intimated to the respondent income tax authorities before the issuance of notice under Section 148A(b) of the Act nor in response to the notice under Section 148A(b) of the Act and for the first time before this Court, this point is being taken by the petitioner. Though petitioner submits that such facts are available in the portal but by making such contention petitioner cannot avoid its own responsibility/ obligation to inform the department.

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 of the Act, 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 the assessing authority 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 19563 of 2023 is disposed of.

(Md. Nizamuddin, J.)