

WPA 23324 Of 2023

16.11.2023

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Ct no. 2

Sb

Pawan Kumar Sharma

- Vs -

The Union of India & Ors.

Mr. Himangshu Kumar Ray ... for the petitioner

Mr. Aryak Dutt ... for the respondents

Affidavit of service filed by the petitioner be kept with the record.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 6th April, 2023, under Section 148A(b) of the Income Tax Act, 1961 relating to the assessment year 2019-2020 passed on the basis of notice under Section 148A (b) of the Income Tax Act dated 25th March, 2023, on the ground that there is a procedural irregularity and the impugned order has been passed in contravention of the statutory obligation of giving clear seven days time to file reply to the notice under Section 148A(b) of the Income Tax Act, 1961 by which the petitioner was asked to give reply to the same by 2nd April, 2023 which appears that seven days' time was granted but

it is the case of petitioner that no clear seven days time was granted and three holidays intervened between the aforesaid period which is an admitted position and could not be denied by learned advocate representing the respondent/revenue.

Learned advocate representing the petitioner, in support of his aforesaid contention has relied on a reported decision of this court dated 21st July, 2022 in the case of **Girdhar Gopal Dalmia Vs. Union Of India** reported in **(2022) 141 taxmann.com 251 (Calcutta)**.

Considering the facts of the case and submissions of the parties and relevant provision of law, this writ petition being WPA No. 23324 of 2023 is disposed of by setting aside the aforesaid impugned order dated 6th April, 2023 and the matter is remanded back to the Assessing officer concerned to pass fresh speaking order in accordance with law after giving opportunity of hearing to the petitioner or his authorised representative and after considering the reply to the aforesaid notice under Section 148A(b) of the Income Tax Act, 1961 which shall be filed by the petitioner within two weeks from date and Assessing officer shall pass the fresh order under Section 148A(b) of the Income Tax Act, 1961

within four weeks from the date of receipt of such reply. In case of default in filing the reply by the petitioner within the time stipulated herein, the aforesaid impugned order dated 6th April, 2023 shall stand revived.

With this observation and direction this writ petition stands disposed of.

(Md. Nizamuddin, J.)