OD –14

ORDER SHEET

WPO/1011/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

M.P. BIRLA FOUNDATION EDUCATIONAL SOCIETY
VS
UNION OF INDIA AND ORS

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 12th May, 2023.

Appearance:
Mr. J.P. Khaitan,Sr. Adv.
Mr. Protyush Jhunjhunwala, Adv.
Mr. S. Rudra, Adv.
...For the Petitioner
Mr. Vipul Kundalia, Adv.
Mr. Amit Sharma, Adv.
Mr. Anurag Roy, Adv.
Ms. Uneaza Ali, Adv.
Ms. Aditi Singhania, Adv.
...For the Respondents

The Court: Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 31st March, 2023 under Section 148A(d) of the Income Tax Act, 1961 and subsequent notice under Section 148 of the Income Tax Act, 1961 relating to assessment year 2016-17 on the alleged ground of non-services of notice under Section 148A(b) of the Act and being not able to file any objection to the same before passing of the impugned order. Mr. Khaitan, learned senior advocate submits that its official e-mail address is mpbfes@mpbicts.com as appears from the report filed relating to assessment year 2022-23. He also shows the same mail address from the petitioner's profile in the income tax portal.

Mr. Kundalia, learned advocate representing the respondent Income Tax Authority opposes the submission of the petitioner by contending that there are two other e-mail addresses which are active in the ITBA portal which belonged to the petitioner and in those mail addresses the notice under Section 148A(b) of the Act has been sent before passing the aforesaid impugned order which Mr. Khaitan, learned senior advocate denies.

Mr. Khaitan submits that those e-mail addresses available in ITBA are no more active.

Without going into the disputes of service, considering the principles of natural justice by taking into consideration that admittedly petitioner could not get an opportunity to file any objection against notice under Section 148A(b) of the Act and opportunity of personal hearing even if the same was sent to the e-mail addresses if at all those were active, aforesaid impugned order under Section 148A(d) of the Act is set aside and the matter is remanded back to the assessing officer concerned to send the same notice again, under Section 148A(b) of the Act which according to the department has already been sent at the aforesaid e-mail addresses which has been recorded hereinabove, within four days from date and time to file objection to the same is extended by seven days from the receipt of such e-mail and on receiving the said objection to be filed by the petitioner, if petitioner prays for any personal hearing that should be given within two weeks from date of making such request for personal hearing and fresh order under Section 148A(d) of the Act shall be passed within eight weeks from the date of receipt of such objection, on merit and in accordance with law.

With these observations and directions, this writ petition being WPO 1011 of 2023 stands disposed of.

(MD. NIZAMUDDIN, J.)

TR/