OD –10

ORDER SHEET
WPO/1142/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SURENDRA KUMAR AGARWAL
VS
INCOME TAX OFFICER WARD 46/1 KOLKATA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 13th June, 2023.

Appearance:
Ms. Swapna Das, Adv.
Mr. Siddharth Das, Adv.
...For the Petitioner
Mr. Om Narayan Rai, Adv.
...For the Respondents

The Court : Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 29th July and 30th July, 2022, under Section 148A(d) of the Income Tax Act, 1961, relating to assessment year 2014-15, issued in the name of one Satya Narayan Agarwal on the ground that the impugned notice has been issued against a dead person and petitioner submits that the noticee had expired on 2nd August, 2014 and this fact was brought to the notice of the assessing officer concerned by a letter dated 28th November, 2014 and 29th June, 2022 as well as 21st April, 2023 enclosing a death certificate of Satya Narayan Agarwal (deceased) and in spite of that, assessing officer proceeded and passed aforesaid impugned orders dated 29th July, 2022 and 30th July, 2022 under Section 148A(d) of the Act.

Learned advocate appearing for the respondents is not in a position to contradict the facts which are substantiated by record that the proceeding has been initiated against a dead person and before passing the aforesaid impugned order the fact of the death of the noticee was already brought to the official record of the respondents.

Considering the facts and circumstances of the case and submissions of the parties, this writ petition being WPO 1142 of 2023 is disposed of by quashing the aforesaid impugned notice dated 25th May, 2022 under Section 148A(b) and the impugned orders dated 29th July, 2022 and 30th July, 2022 and the order dated 24th April, 2023 under Section147 of the Act. However, quashing of the impugned notices and the orders will not prevent the assessing officer concerned to initiate fresh proceeding in accordance with law.

(MD. NIZAMUDDIN, J.)

TR/