OD –9

ORDER SHEET
WPO/1189/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

KRISHAN KUMAR GUPTA
VS
THE INCOME TAX OFFICER, WARD 11(1) KOLKATA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 26th June, 2023.

Appearance:
Ms. Sutapa Roy Chowdhury, Adv.
Ms. Aratrika Roy, Adv.
...For the Petitioner
Mr. Aryak Dutt, Adv.
...For the Respondents

The Court: Heard learned counsel appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 14th April, 2023, under Section 148A(d) of the Income Tax Act, 1961, relating to assessment year 2019-20 on the ground of violation of principle of natural justice by contending that at the time of passing of the aforesaid impugned order under Section 148A(d) of the Act assessing officer has relied on statements and documents relating to cash, loan and transactions indicating in paragraph 7.3 of the impugned order which were never indicated and with regard to those transactions no show cause notices were issued and there are no indications in this regard in the annexure to the notice under Section 148A(b) of the Act.

Mr. Dutt, learned advocate appearing for the respondent is not in a position to deny the aforesaid allegation that the relevant material relating to transactions, at any stage before passing the order under Section 148A(b) of the Act were supplied and furnished to the petitioner to enable the petitioner to meet the same.

Considering the facts and circumstances of this case and submissions of the parties, this writ petition being WPO 1189 of 2023 is disposed of by setting aside the impugned order under Section 148A(d) of the Act and directing the petitioner to file reply/response to the aforesaid impugned order under Section 148A(d) of the Act by treating the allegations in the same as a show cause notice, within a period of four weeks from date and the assessing officer shall consider and dispose of the said reply/response to be filed within the time stipulated herein, in accordance with law and by passing a reasoned and speaking order and after giving opportunity of hearing to the petitioner or his authorised representative within eight weeks from the date of receipt of such reply/response.

(MD. NIZAMUDDIN, J.)

TR/