OD –9

ORDER SHEET
WPO/1521/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SURYODAY COMPLEX PRIVATE LIMITED
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 5th September, 2023.

Appearance:
Mr. Brijesh Kumar Singh, Adv.
Mr. Om Prakash Prasad, Adv.
...For the Petitioner
Mr. Prithu Dudhoria,Adv.
...For the respondents

The Court: Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 21st April, 2023 under Section 148A(d) of the Income Tax Act, 1961 relating to assessment year 2019-20 on the ground that no materials along with notice under Section 148A(b) of the Act was furnished to the petitioner.

Mr. Dudhoria on instruction submits that the allegation of non-furnishing of the documents/materials along with notice under Section 148A(b) of the Act is not correct and he is denying such allegation.

This issue of service of notice is highly disputed question of fact in view of the stand taken by the department. In fact Mr. Dudhoria has come up with all the materials/documents and on instruction submits that he has furnished materials to the petitioner along with copy of the notice under Section 148A(b) of the Act. In such circumstances I am of the considered view that this fact of evidence of service of documents can be resolved by handing over copy of those documents to the learned advocate appearing for the petitioner with granting liberty to the petitioner to file objection/submission on the documents which has been furnished in Court by Mr. Dudhoria to learned advocate appearing for the petitioner and petitioner will be entitled to file reply making appropriate submission/objection on the basis of those documents/materials within fifteen days from date and the assessing officer concerned shall consider such objection/submission if it is filed by the petitioner within the time stipulated herein, by passing a reasoned and speaking order and after giving opportunity of hearing to the petitioner or its authorised representative within a period of four weeks from the date of receipt of such objections/submissions before proceeding any further in the impugned assessment proceeding.

With these observations and directions, this writ petition being WPO 1521 of 2023 is disposed of.

Instruction filed by Mr. Dudhoria, learned advocate for the respondent be kept with the record.

(MD. NIZAMUDDIN, J.)

TR/