09.01.2024
PB
Sl. No.1.

WPA 5752 of 2022

Mr. Mahesh Kumar Agarwal
Vs
Assistant/Deputy Commissioner of Income Tax, Central Circle 3(4), Kolkata & Ors.

Mr. Avra Mazumder,
Mr. Suman Bhowmik,
Mr. Samrat Das.
... For the Petitioner.

Mrs. Smita Das De.
.......for the respondent.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned notice dated 31st March, 2021, under Section 148 of the Income Tax Act, 1961, relating to assessment year 2017-18 and the impugned order dated 4th February, 2022 and the notices dated 29th November, 2021 and 4th February, 2022, issued under Section 142(1) of the Act, on the ground that the impugned proceeding itself is barred by limitation since the impugned notice under Section 148 of the Act was communicated on 1st April, 2021, though it bears the date of signing on 31st March, 2021.

Mr. Mazumder, learned advocate for the petitioner relies on a decision of this Court dated 27th April, 2022 in WPO 1706 of 2022 in the case of Radhakrishna Bimal Kumar Pvt. Ltd. Vs. Union of India & Ors. and the decision of the Division Bench dated 26th September, 2023 in APOT 231 of 2023 in the case of The Assistant Commissioner of Income Tax, Circle-13(1), Kolkata Vs. Radhakrishna Bimal Kumar Pvt. Ltd. upholding the aforesaid order of this Court passed by the learned single Bench.

Mrs. Das De, learned advocate representing the respondent income tax authority is not in a position to defend the revenue in view of the aforesaid judgments of the single Bench and Division Bench.

Considering the facts and circumstances of the case and submission of the parties and taking into consideration the decision of this Court in the case of Radhakrishna (supra), this writ petition being WPA 5752 of 2022 is disposed of by quashing the impugned proceeding under Section 147 of the Act and as a consequence all legal consequence will follow.

(Md. Nizamuddin, J.)