18.04.2024
Item No.6
Court No.5
Saswata

W.P.A. 10813 of 2024
Parul Barik
Versus
Income Tax Officer, Ward 37(1), Kolkata & Ors.

Mr.Avra Mazumder
Mr.K. Roy
Ms. Alisha Das
...For the petitioner
Mr. Prithu Dudhoria
...For the respondents

1. The present writ petition has been filed, *inter alia*, challenging the order dated 29th March 2024 issued under Section 148A (d) of the Income Tax Act, 1961[1].
2. The petitioner claims to be a senior citizen and is an income tax assessee. It is the petitioner's case that the petitioner was served with a show cause notice dated 13th February 2024 issued under Section 148A(b) of the said Act, in respect of the assessment year 2020-21 and was directed to file her reply on or before 21st February 2024.
3. Mr. Mazumder, learned advocate appearing for the petitioner, by drawing attention of this Court to the "e-proceeding response acknowledgement" dated 21st February 2024, submits that the petitioner had initially sought for adjournment which was granted. However, the subsequent adjournment sought for by the petitioner on 23rd March 2024 was completely ignored by the authorities. According to

Mr. Mazumder the petitioner being an elderly lady and not conversant with the affairs had appointed a person to look after the matter and had, for the said purpose, sought for an adjournment. The respondent no. 1, however, by its order dated 29th March 2024 without taking note of the subsequent "e-proceeding response acknowledgement", had passed the order under Section 148A (d) of the said Act.

4. In the facts as noted hereinabove, it is submitted that his Hon'ble Court may be pleased to set aside the aforesaid order and provide one further opportunity to the petitioner to place her case before the respondent no. 1.

5. Mr. Dudhoria, learned advocate appearing for the respondents, on the other hand, submits that the petitioner was duly served with a notice under Section 148A(d) of the said Act. Although, the petitioner was required to give her response along with supporting documents on or before 21st February 2024, the petitioner instead of filing such response had sought for an adjournment on the said date. At the instance of the petitioner, the matter was adjourned and by a notice dated 11th March 2024, the petitioner was kept informed that adjourned hearing was fixed on 13th March 2024. The petitioner did not file any response on the

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[1] Hereinafter referred to as the "said Act"

adjourned date. It is under such circumstances, the final order dated 29th March 2024 had been passed. It is submitted that there is no irregularity on the part of the respondents in passing the final order.

6. Heard the learned advocates appearing for the respective parties and considered the materials on record.

7. In this case, I find that a notice under Section 148 A(b) of the said Act has been issued calling upon the petitioner to respond on or before 21st February 2024. Admittedly, the petitioner had sought for an adjournment on the said date. At the instance of the petitioner the respondents had adjourned the hearing and subsequently issued a notice dated 11th March 2024 intimating that the next date for hearing was fixed on 13th March 2024. It is true that the petitioner did not take any steps on 13th March 2024. However, the respondents also did not pass any order on the said date.

8. Records reveal that before the order under Section 148A(d) was passed, the petitioner had sought for an adjournment of the proceeding through "e-proceeding response" on 23rd March 2024. Such fact would corroborate from the acknowledgement at page 26 of the writ petition. Once, such adjournment was filed sought for, the authorities in my view, was obliged to consider the same and to

take a decision thereon. There is no reflection of the aforesaid adjournment sought for by the petitioner in the order dated 29th March, 2024 passed by the respondents.

9. Having regard to the aforesaid, I am of the view that the final order dated 29th March 2024 issued under section 148A(d) of the said Act cannot be sustained, the same is accordingly set aside and quashed.

10. The petitioner shall, however, be at liberty to file her response to the original show cause notice dated 13th February 2024 within a period of 7 days from the date. If such response is filed with the respondent no. 1 and in case personal hearing is sought for, the respondents no. 1 shall deal with the same and dispose of such response to the show cause by giving personal hearing, if necessary.

11. In the event, the petitioner does not file her response within the period indicated hereinabove, it shall be open to the respondent no. 1 to take steps in accordance with law.

12. The entire process shall be completed within a period of four weeks from the date of communication of this order.

13. With the above observations and direction, the writ application being WPA 10813 of 2024 is **disposed of**.

14. Since, I have not called for any affidavits, the allegations made in the instant writ petition are deemed not to have been admitted by the respondents.

(*Raja Basu Chowdhury, J.*)