09. **10.09.2025**
Court No.05.

(Pritam)

WPA 11719 of 2024

Mitra Das.

-Vs.-

Union of India & Ors.

Mr. Ramkrishna Bhattacharya,
Mr. Kankana Bhattacharya,
Mr. Mainak Dutta.

...for the petitioner.

Mr. Prithu Dudhoria.

....for the respondents.

1. Challenging the assessment order dated 28th March, 2024 passed under Section 147 read with Section 144 of the Income Tax Act, 1961 (hereinafter referred to as the "said Act") for the assessment year 2015-2016, the instant writ petition has been filed.
2. According to Mr. Bhattacharya, learned advocate representing the petitioner, the jurisdictional Assessing Officer did not have the competence to issue the notice under Section 148 of the said Act, upon the scheme being notified under Section 151A of the said Act.
3. Having heard the learned advocates for the parties, I am of the view that the petitioner having not contemporaneously challenged the notice under Section 148 of the said Act and having participated in the assessment proceedings and having allowed the assessment proceedings to be completed on the basis of

the above notice, should not be permitted to raise such issue for the first time before this Court under Article 226 of the Constitution of India. I, however, find that the assessment order has also been challenged on merits. In my view, since, a specific appellate remedy is provided for, in the facts of this case, this writ petition cannot be entertained.

4. However, at the same time, noting that the above writ petition was filed on 24th April, 2024, and during the pendency of the writ petition the time to prefer the appeal having expired, I am of view that in the event the petitioner prefers an appeal before the Appellate Authority within a period of four weeks from date, upon compliance of all formalities, the Appellate Authority having regard to the observations made herein, shall hear out and dispose of the appeal on merits in accordance with law.

5. Accordingly, the writ petition being WPA 11719 of 2024 stands disposed of.

6. It is also made clear that the petitioner shall be at liberty to raise all points before the Appellate Authority.

(Raja Basu Chowdhury, J.)