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Ct.551
(S.R.)

WPA 20316 of 2025

Asif Ahmed
v.
Union of India & Ors.

Mr. Avra Mazumder
Ms. Alisha Das
Ms. Elina Dey
Mr. Siddhartha das ... for the petitioner.

Mr. Aryak Dutt
Mr. Soumen Bhattacharjee ... for the respondents.

1. Affidavit of service as filed today on behalf of the petitioner is taken on record.
2. The petitioner assails an order dated June 18, 2025 passed under Section 148A(3) of the Income Tax Act, 1961 and the consequential notice under Section 148 of the said Act of 1961, for the assessment year 2021-2022.
3. Mr. Mazumder, learned advocate appearing for the petitioner submits that the order impugned has been passed in abject violation of the principles of natural justice inasmuch as the notice to show cause under Section 148A(1) of the said Act of 1961 was never served upon the petitioner. It is submitted that such notice may have been served upon the petitioner's consultant at the e-mail address of the petitioner's consultant but when the petitioner's own e-mail address was already registered with the Income Tax Department the

notice must have been served at the petitioner's own e-mail address. It is the petitioner's case that the consultant did not inform the petitioner about the same. It is further submitted that the petitioner came to know about the order and the notice impugned only upon the same being served along with a notice under Section 148 at the petitioner's registered e-mail address.

4. Mr. Mazumder further submits that since the petitioner was never served with any notice under Section 148A(1) of the said Act of 1961, therefore the petitioner could not file his objection in response to the said notice. It is submitted that since the order under Section 148A(3) has been passed without affording any opportunity to the petitioner to file his objection the same is bad in law and that the consequential notice under Section 148 of the said Act of 1961 is also bad for the same reason. It is further submitted that the order granting approval to issue the order and the notice impugned by the specified authority under Section 151 of the said Act of 1961 was also not served upon the petitioner, which is another reason for which the same should be interfered with by the Court.

5. Mr. Bhattacharjee, learned senior standing counsel appearing for the revenue submits that no grievance

can be made against service at the email address of the petitioner's consultant inasmuch as such email address had been provided by the petitioner's consultant in the returns filed by him on behalf of the petitioner for the relevant assessment year.

6. It is further submitted by Mr. Bhattacharjee that there is indeed a valid order in existence thereby granting approval for issuance of the order under Section 148A(3) and notice under Section 148 of the said Act of 1961, however, the same was inadvertently missed to be furnished to the petitioner. Instructions given to Mr. Bhattacharjee by the Respondent Revenue Authorities in such regard have been handed up to Court by Mr. Bhattacharjee. The same are taken on record.

7. Heard learned Counsel appearing for the respective parties and considered the material on record.

8. While it is true that the Revenue Authorities cannot be faulted for having served the notice under Section 148A(1) at the e-mail address of the petitioner's consultant since the same was provided in the return filed for the relevant year, yet having regard to the facts and circumstances of the case where the petitioner's consultant has failed to show due diligence it would not be proper to close the doors for the petitioner more so since the petitioner has approached the Court expeditiously. Since it is

apparent that the petitioner has not got any fair opportunity of responding to the notice under Section 148A(1) of the said Act of 1961 therefore for ends of justice, the order impugned dated June 18, 2025 under Section 148A(1) of the said Act of 961 and the consequential notice under Section 148 dated June 18, 2025 stand set aside.

9. The petitioner shall now be entitled to file his objection/representation in response to the notice under Section 148A(1) within two weeks from date. If, such objection is filed within the time indicated hereinabove, the respondent revenue authority shall proceed to pass fresh order under Section 148A(3) upon considering the petitioner's representation, in accordance with law.

10. It is clarified that if the petitioner fails the time frame of two weeks within which the petitioner is to submit representation as directed above, the relevant income tax authority shall be free to pass order under Section 148A(3), in accordance with law and issue the consequential notice under Section 148 of the said Act of 1961.

11. WPA 20316 of 2025 stands disposed of. There shall, however, be no order as to costs.

12. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)