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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/229/2025
IA NO: GA/1/2025

SREI INSURANCE BOOKING PVT. LTD.
VS
DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE -11(1), KOLKATA & ORS.

BEFORE :

THE HON'BLE THE CHIEF JUSTICE T.S SIVAGNANAM
-A N D-
HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
DATE : 28th August, 2025

Appearance :
Mr. Somak Basu, Adv.
Ms. Swagato Kabiraj, Adv.
...for appellant
Mr. Tilak Mitra, Adv.
Mr. Amit Sharma, Adv.
...for respondents

The Court : We have heard Mr. Somak Basu, learned counsel appearing for the appellant and Mr. Tilak Mitra, learned standing counsel for the respondent/department.

This intra-court appeal has been filed by the writ petitioner being aggrieved by the order passed by the Learned Single Bench dated 7.8.2025 by which the Learned Single Bench opined that there is no scope of granting any interim order, especially having regard to the fact that notice under section 148 of the said Act has already been issued. Learned Single Bench was of the view that records has to be produced by the Department and the matter requires to be considered. The appellant had filed the writ petition wherein several grounds have been raised by the appellant/writ petitioner among which one of the grounds is that the power vested with the authority under Section 151 of the Income Tax Act (the Act) to grant or not to grant approval to the Assessing Officer is coupled with the condition that authorities are duty bound to apply their mind and cannot exercise it casually and in a routine manner. The appellant contended that it is apparent from the annexures to the notice issued under section 148 of the Act, sanction for issuance of notice has been issued in a perfunctory manner and to demonstrate the same, the learned Advocate for the appellant has drawn our attention to the said annexures to the notice under section 148 and prima facie it is seen that the Chief Commissioner of Income Tax has affixed his signature and no reasons appear to have been recorded. Apart from that, it is submitted that the notice has been issued after more than two years after the search was conducted on the searched person and this is also one such illegality. Learned Advocate appearing for the appellant/writ petitioner places reliance on the decision of the Hon'ble Division Bench in *Tia Enterprises Pvt. Ltd. vs. Income-Tax Officer, (2024) 468 ITR 5 (Delhi)*, wherein it was held that the approval granted by the statutory authorities for reassessment proceedings under section 147 of the Income-tax Act, 1961, as required under the provisions of the Act, has to be furnished to an assessee along with the reasons to believe that income has escaped assessment. The statutory scheme encapsulated in the Act provides that reassessment proceedings cannot be initiated till the Assessing Officer has reasons to believe that income, which is otherwise chargeable to tax, has escaped assessment and, reasons recorded by him are placed before the specified authority for grant of approval to commence the process of reassessment. In the said case, a copy of the alleged approval by the Principal Commissioner was not produced. However, in the case on hand, annexures to the notice under section 148 contains approval and as observed earlier, we are of the prima facie view that there are no reasons recorded by the Principal Commissioner. However, this finding is only a prima facie finding to support our conclusion that the appellant would be entitled for an interim order till the writ petition is heard and disposed of.

As the Learned writ Court was satisfied that the records have to be called for and the matter requires to be considered, in our view, if the Department proceeds further pursuant to the notice issued under section 148 of the Act, the writ petition would become infructuous. Therefore, the appellant would be entitled to grant of appropriate interim orders.

Accordingly, till the writ petition is heard and disposed of, the respondent authorities are directed not to proceed further pursuant to the notice issued under section 148 of the Act and abide by the result in the writ petition.

In the event the appellant is unsuccessful in the writ petition, the authorities are entitled to proceed further in the matter and the appellant cannot raise the question of any limitation on account of pendency of the writ petition.

With the above observation, the appeal stands disposed of.

The stay application, IA NO: GA/1/2025, also stands disposed of.

It will be well open to the respondent/department to file their affidavit-in-opposition and annex copies of the relevant records.

The appellant is at liberty to correct the mistake which has occurred in the name of the appellant/writ petitioner both in the appeal, supplementary affidavit and the writ petition in the department concerned.

(T.S. SIVAGNANAM, CJ.)

(CHAITALI CHATTERJEE (DAS), J.)

SN./Skd.
AR[CR]