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IN THE HIGH COURT AT CALCUTTA
CONSTITUTION WRIT JURISDICTION
ORIGINAL SIDE

WPO/976/2024

SANTOSH SONKAR
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE RAJARSHI BHARADWAJ
Date : 16th January, 2025.

Appearance:
Mr. Gaurav Mathur, Adv.
Mrs. Swati Agarwal, Adv.
For the petitioner…

Mr. Amit Sharma, Adv.
For the respondents..

The Court:- Learned Counsel appearing for the petitioner submits that the Income Tax Officer, 37(1), being respondent no. 3 in the instant writ petition, passed an order under Section 148 A(d) of the Income Tax Act, 1961 dated 29th March, 2024 without complying with the requirements of Section 148 A(c) and without considering the reply given by the petitioner while passing his order under Section 148 A(d) of the Act.

Learned Counsel appearing for the respondent Authority submits that the petitioner has failed to satisfy the requirements under Section 50C of the Income Tax Act, which speaks of special provision for full value of consideration in certain cases and relies on the order dated 29th March, 2024.

The order dated 29th March, 2024 under Section 148A(d) of the Income Tax Act 1961, is as follows:-

"On perusal of certain third-party information available in the Tax Payer Annual Summary (TAS) in the profile view of the assessee, following information related to F.Y 2019-20 is given here under in summarized form as per table below:-

TSN	Information Code	Information Description	Transaction Amount in Rs.	Stamp value
1120032701769	SFT-012(P)	Purchase of immovable property (SFT-012) ADDITIONAL REGISTRAR OF ASSURENCE (Filer TAN: CALA19704G)	31,50,000	1,60,87,500

Despite having entered into the above-mentioned financial transaction(s) to the tune of Rs. 1,29,37,500/- (CAPITAL GAINS) which is more than the minimum amount of income chargeable to tax, the assessee has not filed his return of income for the AY 2020-21. The above information suggests that the income chargeable to tax for the assessment year

2020-21 has escaped assessment within the meaning of section 147 of the Act.

Accordingly, an opportunity of being heard was accorded to the assessee by issuing a show-cause notice (SCN) u/s 148A (b) of the Act dated 18.01.2024 whereby the assessee was requested to furnish his explanation along with relevant supporting document on or before 29.01.2024. Along with the said SCN, the assessee was also provided with the relevant information with respect to the case.

In response to the SCN dated 18.01.2024, the assessee requested for time due to cold, cough & ill health and completely under bed rest. The time was allowed and assessee was requested to reply by 05.03.2024. In his reply on 05.03.2024 the assessee submitted purchased deeds which shows that the market value of the property was Rs. 173,25,000/- whereas the set forth value was Rs. 63,00,000/-. The reply is insufficient in respect with the insight information, I am of the considered opinion that the income chargeable to tax to the tune of Rs. 1,29,37,500/-, has escaped assessment for the AY 2020-21 in the instant case and it is fit case for issuance of notice u/s 148 of the Act."

On perusal of this order, it is seen that there is a clear violation of Section 50C of the Income Tax Act as the consideration received on transfer of capital estate being land and building in this case is less than the valuation adopted or assessed by the authority of the State Government for the purpose of payment of Stamp Duty to be full violation of the consideration received on accruing is a result of such transfer.

Thus, the order passed by the respondent no. 3 under Section 148A(d) of the Income Tax Act is not interfered by this Court and the writ petition is dismissed.

(RAJARSHI BHARADWAJ, J.)

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