

37 12.07.2023
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CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI

W.P.A. 1228 of 2023

Shilpa AGarwsal

-vs-

Union of India & Ors.

Mr. Dhiraj Lakhota,
Ms. Radhika Agarwal

....for the petitioner.

Mr. Sudipto Kumar Mazumdar,
Mr. Ajay Kumar Singhania,
Mr. Saptak Sarkar

....for the Income Tax.

The writ petition is taken up for consideration wherein the order passed by the Assessing Officer under Section 148A(d) of the Income Tax Act of 1961 (hereinafter referred to as the “said Act of 1961”) is under challenge.

According to the petitioner the procedure under Section 148A(a), (b) & (c) has not been complied with as a result whereof the order dated 10th April, 2023 passed by the Assessing Officer under Section 148A(d) is untenable.

Mr. Mazumdar, learned Deputy Solicitor General has opposed the prayer of the petitioner and has drawn attention of this Court to the notice dated 10th March, 2023 issued under Section 148A(b) whereby it was informed to the petitioner that income chargeable to tax for the Assessment Year 2019-20 has escaped assessment within the meaning of Section 147

of the said Act of 1961. It has also been submitted that such steps taken under Section 148A were based on information received by the Revenue Authorities.

According to the Revenue authorities after complying the procedure under Section 148A a detailed order has been passed under Section 148A(d) therefore contention of the petitioner that principle of natural justice has been violated does not survive.

This Court while appraising the submissions made on behalf of the respective parties has considered the undated reply of the petitioner which is annexure P2 to this writ petition in order to find out whether petitioner made appropriate deliberations before the Assessing Officer on receipt of notice under Section 148A(b).

However, on perusal of the said reply it does not appear that petitioner prayed for supply of relevant materials based on which opinion was formed by the Assessing Officer to initiate proceeding under Section 148 upon negating the contentions of the petitioner by passing order under Section 148A(d). Therefore, prayer for interim order is refused.

Accordingly, this Court finds that the issue involved in this writ petition needs to be decided upon affidavits.

Let affidavit-in-opposition to this writ petition be filed within four weeks from date, affidavit-in-reply

if any thereto, be filed within two weeks thereafter.

Petitioner shall be at liberty to mention the matter before the next available Circuit for hearing after the time fixed hereinabove for exchanging the affidavits.

The parties shall act on the basis of the server copy of the order downloaded from the Official Website of this Court.

(Saugata Bhattacharyya, J.)