OD-2

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/431/2024

Stesalit Infotech Private Limited
Versus
Union of India & Ors.

BEFORE
The Hon'ble Justice RAJA BASU CHOWDHURY
Date: 15th July, 2024.

<u>Appearance</u>
*Mr. J. P. Khatian, Sr. Adv.*
*Mr. Pratyush Jhunjhunwala, Adv.*
*Ms. Debanjana De, Adv.*
*Ms. Sreetapa Sinha, Adv.*
*... for the petitioner*

*Mr. Aryak Dutt, Adv.*
*...for the respondents*

THE COURT:

1. The present writ petition has been filed, inter alia, challenging not only the order dated 31st March, 2024 issued under Section 148A(d) of the Income Tax Act, 1961 (hereinafter referred to as the "said Act") for the assessment year 2020-21, but also the notice issued under Section 148 of the said Act dated 31st March, 2024.

2. It is the petitioner's case though in terms of Section 151A of the said Act, read with the notification dated 29th March, 2022, the notice under Section 148 of the said Act was required to be issued through the automated allocation, in accordance with risk management strategy formulated by the Board as referred to in Section 148 of the

said Act, for issuance of notice, in a faceless manner, to the extent provided in Section 144B of the Act with reference to making assessment or re-assessment of total income or loss of the assessee, such notice has in fact been issued by the jurisdictional assessing officer.

3. Mr. Kaithan has also extensively argued on the challenge to the order issued under Section 148A(d) of the said Act dated 31st March 2024 for the assessment year 2020-21.

4. Mr. Dutt learned advocate for the respondents advanced his arguments.

5. Having heard the learned Advocates appearing for the respective parties and taking note of the fact that a jurisdictional issue has been raised as regards the authority of the jurisdictional assessing officer to issue a notice under Section 148 of the said Act and consequent upon a scheme being framed in terms of Section 151A of the said Act, which requires issuance of notice under Section 148 of the said Act in a faceless manner, and since the petition also questions the validity of the order passed under Section 148A(d) of the said Act dated 31st March, 2024 for the assessment year 2020-21, I am of the view that the writ petition should be heard upon exchange of affidavits.

6. Let affidavit-in-opposition of the present writ petition be filed within a period of four weeks from date; reply thereto, if any, may be filed within three weeks thereafter.

7. Since the petitioner has been able to make out a prima facie case, and taking into consideration the order passed by the Division Bench of this Court presided over by the Hon'ble the Chief Justice in the case of ***Girdhar Gopal Dalmia v. Union of India & Ors.***, in **MAT/1690/2023** on 25th September, 2023, whereby the Hon'ble Division Bench while considering the competence of the jurisdictional assessing officer to issue a notice under Section 148 of the said Act, consequent upon publication of the Scheme vide Notification dated 29th March, 2022, while admitting the appeal had stayed the said notice, I am of the view that all further proceedings in connection with the notice issued under Section 148 of the said Act for the assessment year 2020-21 dated 31st March, 2024 shall remain stayed for a period upto the end of November, 2024, or until further orders, whichever is earlier.
8. Liberty to mention upon expiry of the period for exchange of affidavits as mentioned hereinabove.

(RAJA BASU CHOWDHURY, J.)

kc/sg.