

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/435/2024

Shilpam Dealcom Private Limited
Versus
Union of India & Ors.

BEFORE

The Hon'ble Justice RAJA BASU CHOWDHURY

Date: 4th July, 2024.

Mr. Subash Agarwal, Adv.
Mr. Rajarshi Chatterjee, Adv.
Mr. Nitish Bhandary, Adv.
Mrs. Suman Sahani, Adv.
...for the petitioner
Mr. Soumen Bhattacharjee, Adv.
Ms. Doyel Dey, Adv.
...for the respondents

THE COURT: 1. Today, Mr. Bhattacharjee, learned advocate representing the respondents, on instructions, submits that the notice issued under Section 148 of the Income Tax Act, 1961 (hereinafter referred to as the "said Act") dated 28th April, 2023 in respect of the assessment year 2016-17, has not been proceeded with further.

2. In view thereof, the matter is taken up for further consideration.

3. The petitioner, inter alia, challenges the notice issued under Section 148 of the said Act, on the ground that the same has been issued by the jurisdictional assessing officer though in terms of Section 151A of the said Act read with the notification dated 29th March, 2022, such

notice 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.

4. Since the writ petition has been filed belatedly, this Court had on the previous occasion directed the learned advocate for the respondents to take appropriate instructions as to whether any further step had been taken in connection with the notice issued under Section 148 of the said Act.

5. Since it appears from the submission made by Mr. Bhattacharjee that the respondents have not proceeded further and since the petition raises a jurisdictional issue, I am of the view that the writ petition should be heard upon exchange of affidavits.

6. Let affidavit in opposition to the present writ petition be filed within six weeks from date; reply thereto, if any, be filed within four weeks thereafter.

7. Taking into consideration the prima facie case as has been made out by the petitioner and the judgement of the Division Bench of this Court presided over by the Hon'ble the Chief Justice *in the case of Girdhar Gopal Dalmia vs. 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, and while admitting the appeal had stayed the said notice, I am of the view that no further steps should be taken by the respondents on the basis of the notice issued under Section 148 of the said Act dated 28th April, 2023 for assessment year 2016-17 till the end of November, 2024 or until further order, whichever is earlier.

8. Liberty to mention upon expiry of the period for exchange of affidavits.

(RAJA BASU CHOWDHURY, J.)

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