

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE.

WPO/616/2024
EXCEL PROPERTIES AND ORS.
VS
UNION OF INDIA AND ORS.

BEFORE
THE HON'BLE JUSTICE RAJA BASU CHOWDHURY
Date: August 05, 2024.

Appearance :
Mr. Subash Agarwal, Adv.
Mr. Rajarshi Chatterjee, Adv.
Mr. Nitish Bhandary, Adv.
Mrs. S. Sahani, Adv.
...for petitioner
Mr. Aryak Dutt, Adv.
Ms. Riya Kundu, Adv.
....for respondents

The Court: 1. The petitioner inter alia challenges the notice issued under Section 148 of the Income Tax Act, 1961 (hereinafter referred to as the said Act) dated 16th April 2024 for the assessment year 2017-18, on the ground that the same has been issued by 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.

2. Having heard the learned Advocates appearing for the respective parties since it appears that the writ petition raises a jurisdictional issue I am of the view that the writ petition should be heard upon exchange of affidavits.

3. 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.

4. 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 16th April, 2024 for assessment year 2017-18 till the end of November, 2024 or until further order, whichever is earlier.

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

(RAJA BASU CHOWDHURY, J.)