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

WPO/617/2024
NITIN AGARWAL
VS
THE INCOME TAX OFFICER, WARD 46(1) AND ORS.

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

Appearance :
Ms. Sutapa Roychoudhury, Adv.
Ms. Aratrika Roy, Adv.
…for petitioner
Mr. P.Dudhoria, Adv.
….for respondents

The Court: 1. Challenging not only the order passed under Section 148A(d) of the Income Tax Act, 1961 dated 29th March, 2024 for the assessment year 2020-21 but also the notice issued under Section 148 of the said Act dated 29th March,2024 for the self-same assessment year the present writ petition has been filed. The petitioner challenges the notice issued under Section 148 of the said Act dated 29th March, 2024 for the assessment year 2020-21 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 notification dated 29th March, 2022, such notice was required to be issued through 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 for a faceless manner to the extent provided in Section 144B of the said Act with reference to making assessment of reassessment or 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 29th March, 2024 for assessment year 2020-21 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.)

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