

ORDER SHEET
WPO/1894/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

DHANTERASH DISTRIBUTORS LLP
VS
UNION OF INDIA AND ORS

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 6TH APRIL, 2022.

Appearance:
Mr. Sri Subir Sanyal, Adv.
Mr. Prashant Agarwal, Adv.
..for the petitioner

Mr. Prithu Dudhoria, Adv.
..for the respondents.

The Court : Heard both the parties.

In this matter, the petitioner has challenged the impugned notice under Section 148 of the Income Tax Act, 1961 dated 13th March, 2021 and all subsequent steps on the ground that the same is bad in law for the reason that impugned notice under Section 148 bearing dated 13th March, 2021 does not bear any digital signature or any date of issuance, it was served upon the petitioner on 15th February, 2022 by speed post and further on the ground that the initiation of the impugned proceeding under Section

147 of the Act is in total non-application of the mind for the reason that in the recorded reason one of the grounds recorded for initiation of the proceeding is that no scrutiny assessment under Section 143 Sub-section 3 of the Act was made while it is on record that the assessment order relating to the relevant assessment year 2013-14, under Section 143(3) of the Act was already passed on 23rd December, 2015, which is a part of the supplementary affidavit filed in the Court.

Considering the facts and circumstances of the case, it appears from record the impugned notice under Section 148 of the Act and the proceeding under Section 147 is not sustainable in law for the reason that the case falls under amended taxation law relating to re-assessment under which respondent had to observe formality of issue of notice under Section 148(A) of the Act which has not been done in this case and further that one of the reasons recorded for initiation of the impugned proceeding is that no scrutiny assessment order was made in the matter which is contrary to record.

However, Mr. Dudhoria, learned Advocate appearing for the respondents prays for time to take instruction in the matter though I am of the view that Department will not be able to improve his case which appears from record but still opportunity is given to him to take appropriate instruction in the matter.

List this matter on 11th April, 2022.

In the meantime, impugned assessment order dated 31st March, 2022 under Section 147 of the Act shall remain stayed.

This interim order shall continue till 18th April, 2022 or until further order whichever is earlier.

(MD. NIZAMUDDIN, J.)

Sbghosh