(2021) 12 MP CK 0010

In the Madhya Pradesh High Court

Case No : Writ Petition No. 26694 Of 2021

Lakhan Kewat APPELLANT

Vs

Union Of India And Others RESPONDENT

Date of Decision : 04-12-2021

Acts Referred:

Income Tax Act, 1961 — Section 41, 42, 44, 145, 148, 148A
Finance Act, 2021 — Section 151

Citation : (2021) 12 MP CK 0010

Hon'ble Judges : Atul Sreedharan, J;Sunita Yadav, J

Bench : Division Bench

Advocate : Abhijeet Shrivastava

Judgement

Learned counsel for the petitioner has drawn our attention to Annexure P/1, which is a notice issued by the Department U/s.148 of the Income Tax Act, 1961 on 29.06.2021 (Annex.P/1). Learned counsel for the petitioner has submitted that the Finance Act, 2021, which was notified on 01.04.2021, has by Section 41 and 42, has amended Section 148 of the Income Tax Act (for short 'I.T. Act") and inserted Section 148-A where, for the purpose of re-opening assessment, the procedure U/s.148-A has to be mandatorily followed, providing an opportunity to the petitioner in this case of being heard and also required the prior approval of the specified authority.

Learned counsel for the petitioner has thereafter drawn our attention to the amending Section 44 of the Act by which, Section 151 was amended, which provided that for the purposes of Section 148 and Section 148-A, the Principal Commissioner, the Principal Director or Commissioner, shall be the "specified authority" where the assessment is sought to be reopened before the lapse of three years, as provided in Clause II, the Principal Chief Commissioner or Principal Director General, shall be the "specified authority" in cases where the reassessment is to be done after the lapse of more than three years. In the instant case, as the reassessment is sought to be done for the assessment year of the year 2014-15, in the year 2021, learned counsel for the petitioner submits that it would sub-clause II of amended Section 151 of the Finance Act, 2021, that would be applicable.

Be that, as it may, we are prima-facie convinced with the arguments putforth by the learned counsel for the petitioner that since the notice U/s.148 of the I.T. Act appears to have been issued to the petitioner herein, without following the procedure as mandated U/s.148-A of the I.T. Act, it is directed that no further proceedings shall be taken against the petitioner, pursuant to the impugned notice dated 29.06.2021 (Annex.P/1), issued by the respondent/Department, till the next date of hearing.

List this case along with W.P. No.15243/2021 for analogous hearing.

C.C. as per rules.

