(2021) 07 CAL CK 0065

In the Calcutta High Court

Case No : Writ Petition No. 269 Of 2021

Techno Mercantile Private Limited — APPELLANT

Vs

Union Of India And & Ors. — RESPONDENT

Date of Decision : 27-07-2021

Acts Referred:
Income Tax Act, 1961 — Section 148, 148A

Citation : (2021) 07 CAL CK 0065

Hon'ble Judges : Md. Nizamuddin, J

Bench : Single Bench

Advocate : Pranit Bag, Anuj Kumar Mishra, Dhiraj Trivedi, Madhu Jana

Judgement

In this matter petitioner has challenged the impugned notice dated 19th April, 2021 relating to assessment year 2013-2014 under Section 148 of the

Income Tax Act, 1961 on the ground that before issuing notice under Section 148 of the Act, mandatory provisions of Section 148A of the Act which

cast statutory obligation on the Assessing Officer to comply the provisions of the same before issuing any notice under Section 148 of the Act has not

been complied with by the Assessing Officer.

Petitioner has also challenged the constitutional validity of the provisions of the Taxation And Other Law (Relaxation and Amendment Of Certain

Provisions) Act, 2020.

Mr. Bag, learned Advocate appearing for the petitioner in support of his contention has relied on two unreported decisions of the Honâ??ble Bombay

High Court, one decision is in WP (L) No.11766 of 2021 dated 3rd June, 2021 in the case of Armada D1 Pte. Ltd. Vs. The Deputy Commissioner of

Income Tax Int-Tax Circle 1(1) (2) & Ors. and unreported decision in WP No.

1334 of 2021 dated 5th July, 2021 in the case of Tata Communications

Transformation Services Limited Vs. Assistant Commissioner of Income Tax 14(1)(2), Mumbai & Ors. He has also relied on one reported decision

of Honâ??ble Bombay High Court in WP (L) No. 14687 of 2021 in the case of Sahil International Vs. Assistant Commissioner of Income Tax,

Circle-19(3) & Ors. reported in [2021] 128 taxmann.com 161 (Bombay) dated 9th July, 2021 and one unreported decision of Honâ??ble Delhi High

Court in W.P. (C) 6176 of 2021 in the case of Mon Mohan Kohli Vs. Assistant Commissioner of Income Tax & Anr. dated 7th July, 2021.

In all these aforesaid cases Honâ??ble Courts have stayed the impugned notice under Section 148 of the Income Tax Act, 1961 for non compliance

of the provisions of Section 148A of the Act. I have also passed similar order on 15th July, 2021 in W.P. No. 244 of 2021 (Bagaria Properties And

Investments Private Limited & Anr. vs. Union of India & Ors.). The learned Advocate for the respondents is not able to deny the allegations of the

petitioner that Section 148A provisions of the Income Tax Act, 1961 was not complied with in this case before issuing notice under Section 148 of the

said Act and was not able to distinguish the aforesaid unreported decisions.

Considering the submissions of the parties, I direct the respondents to file affidavit-in-opposition within six weeks from date. Petitioner to file reply

thereto, if any, within two weeks thereafter. List the matter after eight weeks (i.e. 21.09.2021)

In the meanwhile, respondents are restrained from proceeding any further on the basis of the aforesaid impugned notice dated 19th April, 2021 being

Annexure â??P-1â?? to the writ petition.

