WPA 7452 of 2023

8.5.2023
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Coplama Products Private Limited
- Vs -
Income Tax Officer, Ward No.6(1),, Kolkata & Ors.

Mr. Avra Mazumder,
Ms. Alisha Das
Mr. S. Bhowmik,
Mr. Samrat Das
... For the Petitioner.
Mr. Om Narayan Rai
... For the Income Tax Authority.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 28th July, 2022 under Section 148A(d) and Section 148 of the Income Tax Act, 1961 relating to assessment year 2015-2016, and, all subsequent proceedings based on the impugned notice dated 28th April, 2021 under Section 148 of the Income Tax Act, 1961, mainly on the ground of jurisdiction of the assessing officer in issuance of the impugned notice under Section 148 of the Act being barred by limitation under Section 149(1)(b) of the Income Tax Act, 1961. In the impugned order under Section 148A(d) of the Act, the assessing officer has tried to justify the initiation of re-assessment proceeding by relying on an instruction being No.01/2022 dated 11th May, 2022 issued by CBDT. Admittedly, the issuance of notice and initiation of re-assessment proceeding are beyond six years and, prima facie, it is barred by limitation both under the old Act as well as under newly amended provision relating to Section 147 of the Act.

Considering the submission of the parties, I am of the view that this matter deserves adjudication by calling for affidavits from the respondents and I am also of the view that the petitioner has been able to make out a prima facie case for an interim order by raising the issue of jurisdiction of the assessing officer concerned in initiating the impugned re-assessment proceeding.

Let the respondents file affidavit-in-opposition within four weeks after the summer vacation, petitioner to file reply thereto, if any, within two weeks thereafter.

List this matter for final hearing in the monthly list of August, 2023.

In the meantime, there will be no further proceeding on the basis of the impugned order dated 28th July, 2022 being Annexure P-7 to the writ petition till the disposal of the writ petition.

(Md. Nizamuddin, J.)