

15.3.2022

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WPA 4090 of 2022

M/s. Kasturi Towers Private Ltd.
Vs
Income Tax Officer, Ward -13(1)& Ors.

Mr. Avra Mazumder,
Ms. Megha Agarwal,
Mr. B. Gupta

... For the Petitioner.

Mr. Bhaskar Prosad Banerjee

... For the Customs, C Ex. & S.Tax

Ms. Smita Das De

... For the Respondents.

Heard learned Advocates appearing for the parties.

In this writ petition, petitioner has challenged the impugned notice dated 31st March, 2021 under Section 148 of the Income Tax Act, 1961 relating to assessment year 2013-2014 and the impugned order dated 3rd February, 2022 rejecting the petitioner's objection to the aforesaid notice on the ground that the impugned notice is barred by limitation, secondly, that the impugned notice was never issued on 31st March, 2021 since the same was not received by the petitioner by its registered e-mail address nor was uploaded or displayed on the I.T. portal on 1st April, 2021 and further on the ground that in spite of repeated requests by its letters dated 8th July, 2021, 6th December, 2021 and 20th January, 2022 asking the respondents authority to provide it the evidence of issue of the aforesaid notice prior to 1st April, 2021 and Audit log of IT portal as to when the said notice

was posted on portal, was never replied and the impugned order of rejection of the petitioner's objection is also silent on all these grievances raised in the aforesaid representations.

Ms. Das De, learned Advocate appearing for the respondents is also not able to deny the aforesaid allegation of the petitioner that the aforesaid representations were replied to and disposed of before passing the impugned order of rejection of the petitioner's objection and I also find that the impugned order of rejection dated 3rd February, 2022 is not a speaking order so far as the grievances of the petitioner raised in the aforesaid representations about the allegation of non-issuance of the impugned notice on 31st March, 2021 and not uploading and displaying on the IT portal on 1st April, 2021.

Considering the submission of the parties, this writ petition, being WPA 4090 of 2022 is disposed of by setting aside the impugned order dated 3rd February, 2022 rejecting the petitioner's objection to the impugned notice under Section 148 of the Act and the respondent concerned is directed to consider and dispose of the representation of the petitioner dated 20th January, 2022 being Annexure P-9 to the writ petition in accordance with law and by passing a reasoned and speaking order after giving an

opportunity of hearing to the petitioner or its authorised representative within eight weeks from the date of communication of this order and all further proceedings will depend upon the final out come of the order to be passed by the respondents on the aforesaid representation.

(Md. Nizamuddin, J.)