

Serial No.01 Supplementary List
--

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP (C) No.179/2022

Date of Order: 20.05.2022

Jasmine Bonny Agitok Sangma	Vs.	Union of India & ors
-----------------------------	-----	----------------------

Coram:

Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner : Dr. A. Saraf, Sr.Adv

For the Respondents : Dr. N. Mozika, ASG with
Ms. S. Rumthao, Adv

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

The challenge in the present case is to an order dated April 1, 2022 passed under clause (d) of Section 148A of the Income Tax Act, 1961.

2. An initial notice under clause (b) of Section 148A of the Act for assessment year 2015-16 was issued to the petitioning assessee on March 23, 2022. Such notice required the assessee to show cause why a notice under Section 148 of the Act should not be issued. In view of the order that is proposed to be made, the further details in the notice need not be addressed at this stage.

3. The petitioner responded to the show-cause notice and a copy of the e-proceedings response acknowledgement dated March 30, 2022 has been appended to the petition. It is apparent that the petitioner replied to the initial show-cause notice and such reply was duly lodged.

4. However, the impugned order under clause (d) of Section 148A of the Act was issued on April 1, 2022 without taking the petitioner's response to the initial notice into consideration. The same would be apparent from the penultimate paragraph of the impugned notice of April 1, 2022 which records that no reply was furnished by the assessee in response to the notice under Section 148A(b) of the Act.

5. Since there appears to be an error apparent on the face of the impugned order passed under Section 148A(d) of the Act dated April 1, 2022 and the Department failed to consider the assessee's written response that was received by the Department on March 30, 2022, the impugned order of April 1, 2022 cannot be sustained and the same is set aside. As a consequence, the notice under Section 148 of the Act also dated April 1, 2022 is quashed with liberty to the Department to issue a fresh notice in accordance with law, if the Department is so entitled.

6. It will now be open to the Department to consider the matter afresh by taking into account the petitioning assessee's response of March 30, 2022 before taking further steps in the matter in accordance with law.

7. Nothing herein will prejudice the rights and obligations of either the petitioning assessee or the Department.

8. WP (C) No.179 of 2022 is disposed of without any order as to costs.

(W. Diengdoh)
Judge

(Sanjib Banerjee)
Chief Justice

Meghalaya
20.05.2022
"*Lam* DR-PS"

